CANADA

Human Rights In Canada

Reprint of a section from the Labour Gazette for November 1958 prepared for the tenth anniversary of the Universal Declaration of Human Rights

DEPARTMENT OF LABOUR, CANADA

Hon. Michael Starr, Minister

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A Message from the Minister of Labour

The struggle for human rights is as old as mankind itself. In the long development of democracy, beginning with the Magna Charta of 1215, through the Bill of Rights of 1679, the American Declaration of Independence, France's Declaration of the Rights of Man, etc., those rights have come to gain protection through the law and practice of individual states. The international minimum social and labour standards drafted by the tripartite International Labour Organization have, since the ILO's creation in 1919, pioneered in providing protection of a special kind of human rights.

But the protection gained from all those documents has depended on individual states, and was enjoyed only by the peoples of those states that enacted such measures or ratified such standards.

Then, on December 10, 1948, the United Nations General Assembly adopted and proclaimed a Universal Declaration of Human Rights. For the first time, the rights and freedoms defined in the Declaration—economic and social rights as well as political rights—were set out in an international, universal declaration, and were specifically applied to the individual as a human being "without distinction based on the political status of countries or territories". That is the real significance of this Declaration.

As its contribution to the Canadian celebration of the tenth anniversary of the Universal Declaration of Human Rights, the *Labour Gazette* is publishing in this issue a special section on Human Rights. It is most appropriate, in my opinion, for the *Labour Gazette* to mark this anniversary in this way. I say this because the publicizing of such documents and of action taken towards the achieving of human rights and fundamental freedoms is in no way foreign to one of the purposes served by the *Labour Gazette*. As set forth on the first page of its first issue in September 1900, the *Labour Gazette* aims to contain in its columns topics that "have a bearing on the status and well-being of the industrial classes of Canada". And I say it because Canadian governments have long believed in the concepts crystallized in the Declaration's thirty articles and have already given legislative force to many of them; the Government of which I am a member introduced during the most recent session of Parliament a "Bill of Rights" aimed at providing statutory protection of some of the other rights enumerated in the Declaration.

I further believe it appropriate for a Department of Labour publication to call attention to this anniversary because Articles 23 and 24 of the Declaration come close to spelling out the reasons for the establishment and existence of a Department of Labour.

The Declaration's tenth anniversary will be celebrated throughout almost the entire world. In Canada a country-wide celebration has been organized by a group of organizations who have formed the Human Rights Anniversary Committee for Canada. I note that this Committee includes among its sponsoring organizations several groups within the Canadian labour movement.

I invite, and urge, all readers of the *Labour Gazette* to read the Universal Declaration of Human Rights reprinted on the following pages, and all the articles that make up this special Human Rights section of this issue.

Michael Starr,
Minister of Labour.

Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebelling against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

THE GENERAL ASSEMBLY

proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without ditstinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than

the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality

and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Protection of Human Rights within the Canadian Constitutional System

On September 5, 1958, the Prime Minister introduced in the House of Commons Bill C-60 entitled An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms," the short title of which is the Canadian Bill of Rights. He explained that after the Leader of the Opposition and a representative of the CCF Party had expressed their views, the measure would be held over until the next session to be introduced at the earliest possible date after full representations have been received from those organizations and individuals in our country whose interest over the years has been directed to the necessity for a Bill of Human Rights and Fundamental Freedoms". This proposal for the further protection of human rights and fundamental freedoms is now before the people of Canada in this tenth anniversary year of the adoption of the Universal Declaration of Human Rights.

The Bill contains two parts. In Part I, Section 2 contains the recognition and declaration of rights and freedoms and reads as follows:

It is hereby recognized and declared that in Canada there have always existed and shall continue to exist the following human rights and fundamental freedoms, namely,

(a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
(b) the right of the individual to protection of the law without discrimination by reason of race, national origin, colour, religion or sex;
(c) freedom of religion;
(d) freedom of speech;
(e) freedom of assembly and association; and
(f) freedom of the press;

Section 3 provides that all the Acts of the Parliament of Canada enacted before or after the commencement of the Act, and all orders, rules, regulations thereunder and laws in force in Canada which are subject to the authority of the Parliament of Canada, shall be so construed and applied as not to infringe or abrogate any of the rights or freedoms recognized by this Act. In particular they will not:

(a) impose or authorize the imposition of torture, or cruel, inhuman or degrading treatment or punishment;
(b) deprive a person who has been arrested or detained
  (i) of the right to be informed promptly of the reason for his arrest or detention;
  (ii) of the right to retain and instruct counsel without delay, or
  (iii) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;
(c) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel or other constitutional safeguards;

(d) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations; or

(e) deprive a person of the right to a fair and public hearing by an independent and impartial tribunal for the determination of any criminal charge against him.

Section 4 imposes on the Minister of Justice the duty to examine every proposed regulation submitted in draft form to the Clerk of the Privy Council, and every Bill introduced in the House of Commons to ensure that the proposed measure conforms to the provisions of this Act.

In Part II, Section 5 contains a saving clause to the effect that nothing in Part I of the Bill could be construed as abrogating or abridging any human right or fundamental freedom not mentioned in that Part that may have existed in Canada at the commencement of the Act.

Section 6 provides that security measures provided in Sections 3, 4, and 5 of the War Measures Act shall come into force only following proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists. Such a proclamation shall be laid before Parliament forthwith after its issue or, if Parliament is not sitting, within the first 15 days thereafter.

In explaining in the House of Commons the provisions of Section 6 the Prime Minister said that in time of war rights on occasion have to be placed in pawn as security for victory, but such decision should be made not by the Governor in Council but by Parliament, "thereby restoring to the representatives of the people the right to declare whether or not, for a period to be designated during the progress of war or an international catastrophe similar thereto, any rights shall be deprived except in consequence of the act of Parliament."

As pointed out above, Section 2 of the Bill states that in Canada there have always existed and shall continue to exist certain human rights and fundamental freedoms. They have existed in the main because the British heritage of political customs, usages, conventions and traditions have been carried over into the Canadian way of life. This British heritage of individual and political freedom received formal recognition as being part of the Canadian constitution by a declaration inserted in the preamble to the British North America Act proclaiming that the Dominion of Canada is to have "a constitution similar in principle to that of the United Kingdom".

Language and education were practical issues at the time when the provinces were united, and accordingly both subjects are dealt with in the B.N.A. Act. Section 93 of the Act preserves the rights and privileges of "denominational schools"; extends to the separate schools of "the Queen's Protestant and Roman Catholic Subjects" in Quebec the same powers, privileges and duties then conferred and imposed on the separate schools of "the Queen's Roman Catholic subjects" in Ontario; provides for an appeal to the Governor-General in Council from any act or decision of a provincial authority "affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's subjects in relation to Education"; declares that in the event of any failure on the part of the provincial authority to observe or enforce the provincial laws contemplated by the section, the Parliament of Canada may provide for the execution of the provisions of the section or of any decision of the Governor-General in Council under this section.

Section 133 specifies that either the English or the French language may be used in debates in the federal Parliament and in the Quebec Legislature; that both these languages shall be used in the respective records and journals of those Houses; that either of those languages may be used by any person in the courts established under the Act, and in any of the courts in Quebec.

The Prime Minister's Bill seems to imply on the part of the Parliament of Canada the renunciation of the principle of the sovereignty of the Parliament of Canada insofar as the curtailing of human rights is concerned except regarding the security measures enacted under the War Measures Act.

The proposed Bill is not conceived as an amendment to the B.N.A. Act but as a statute of the Parliament of Canada. It is limited in scope, being restricted to the rights strictly within the jurisdiction of Parliament whatever that jurisdiction may be. It does not infringe on the jurisdiction granted by the B.N.A. Act to the provincial legislatures.

Although the limits of the jurisdiction of Parliament in the field of human rights may not as yet have been clearly defined by court decisions, the field is at any rate fairly wide, since Section 91 of the B.N.A. Act granted to the Parliament of Canada the power "to make laws for the Peace, Order and Good Government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned

exclusively to the legislatures of the province" and in particular, *inter alia,* "The Criminal Law except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters."

It is also clear, however, that because Section 92 of the B.N.A. Act grants exclusive powers to provincial legislatures in relation to "Property and Civil Rights in the Province," provincial legislatures may make laws in respect to some aspects of civil rights.

The question of what is involved in the term "property and civil rights" as being within provincial jurisdiction has been dealt with in a number of cases in the Supreme Court of Canada. Views have been expressed that this term does not include freedom of worship and freedom of speech and therefore these freedoms are within the jurisdictional powers of the Parliament of Canada. In this respect it is of interest to note the opinions regarding the matter expressed by judges of the Supreme Court of Canada in *Saumur* v. *City of Quebec and Attorney General of Quebec* (1953) 4 D.L.R. p. 641, the case involving the constitutionality of a by-law of the City of Quebec which prohibited distribution of printed matter on the streets of the City of Quebec without the written permission of the Chief of Police. The issues raised in the case were whether the disputed by-law was directed at regulation of streets or at interference with freedom of religion and freedom of speech; was the by-law administered as involving censorship; are the provinces competent to legislate in respect to freedom of religion and speech. The Court held by a majority that the by-law in question does not extend so as to prohibit the members of Jehovah's Witnesses from distributing in the streets of Quebec any of their religious literature without permission, but the by-law itself was held by a majority as *intra vires* of provincial jurisdiction.

On that occasion some judges expressed the views that freedom of worship and freedom of expression are within provincial authority, within "property and civil rights," under Section 92 (13) of the B.N.A. Act. This view was shared by Chief Justice Rinfret, Mr. Justice Taschereau and Mr. Justice Kerwin.

Chief Justice Rinfret (with Mr. Justice Taschereau concurring) held that freedom of worship is a civil right within the terms of Section 92 (13) of the B.N.A. Act and consequently a provincial domain. As to the question whether there are any limitations on the provincial powers to legislate on freedom of worship and expression, he was of the opinion that in the absence of a Bill of Rights, the supreme authority of the provinces to legislate and if necessary to restrict these freedoms could not be questioned. Mr. Justice Kerwin expressed the opinion that the right to practise one's religion, as well as the freedom of the press, are civil rights within provincial jurisdiction.

An opposite stand was taken by Mr. Justice Rand, Mr. Justice Kellock, Mr. Justice Estey and Mr. Justice Locke, who were of the opinion that freedom of worship and freedom of expression are within federal jurisdiction.

In this respect Mr. Justice Rand was of the opinion that from 1760 onwards, religious freedom has been recognized as a fundamental principle in the Canadian legal system, and the statutory history of the expression "property and civil rights" exhibited in enactments which also made special provisions relative to religion shows that matters of religious belief were never intended to be within Section 92 (13) of the B.N.A. Act; nor can legislation in relation to religious profession be considered a matter of a local or private nature within Section 92 (16) since its dimensions are nation-wide. His conviction that freedom of religion is outside provincial legislative power (although it may be affected by competent provincial legislation) was fortified by Section 93 of the B.N.A. Act, which deals with the rights and privileges of denominational schools and apparently contains the only reference in the Act to religion. If freedom of religion was a provincial concern, then, Mr. Justice Rand added, "these vital constitutional provisions could be written off by the simple expedient of abolishing, as a civil right, and by provincial legislation, the religious freedoms of minorities, and so, in legal contemplation, the minorities themselves".

Also he was of the opinion that freedom of speech, as a basic condition of parliamentary government, is beyond provincial powers of regulation.

In Mr. Justice Kellock's opinion, the legislative history from 1774 on indicates that the phrase "property and civil rights" did not encompass religious profession and exercise, which were dealt with in the pre-Confederation statute of 1851, An Act respecting Rectories. He asserted that the right to the exercise of religion is not a "civil right" and even if it is, it is not a civil right "within the province"; and this conclusion is fortified by Section 93 of the B.N.A. Act.

Mr. Justice Estey stated that free exercise and enjoyment of religious profession and worship is a matter within the legislative

power of the Dominion for "the Peace, Order and good Government of Canada" (Section 91) and does not come within Section 92 (13).

In Mr. Justice Locke's opinion the protection of the right of religious worship as of the right to free public discussion is within federal legislative power and such matters are not civil rights within provincial competence.

Mr. Justice Cartwright and Mr. Justice Fauteux differed somewhat from either of the opinions expressed above. They held that there are no rights of a citizen of Canada which are beyond the reach of either Parliament or a provincial legislature. Freedom of the press is not a separate matter committed exclusively to either Parliament or to provincial legislatures. It may in some aspects fall within federal authority (as, for example, in relation to criminal law) and in others within provincial authority. While it may well be that religion as such is a matter within exclusive federal competence (although it was unnecessary to decide this in the case before them), nonetheless a province, legislating within its appointed sphere, may affect religious practices.

The provinces have availed themselves of the legislative powers granted under the property and civil rights clause to enact legislation aimed at the protection of some of the basic rights and providing remedies for an individual whose rights are infringed. The Saskatchewan Bill of Rights asserts the right to freedom of conscience (including freedom of worship); the right to free expression through all means of communications; the right of association; freedom from arbitrary imprisonment; and the right to free exercise of the franchise. It also asserts certain rights which are to be enjoyed without discrimination because of race, creed, religion, colour, or ethnic or national origin, namely, the right to own and occupy property, the right to membership in professional associations and occupational organizations, and the right to education. It is an offence punishable by a fine to deprive anyone of these rights or abridge or otherwise restrict them. Any person may lay an information alleging on behalf of himself or a class of persons that any of these rights has been infringed. The Court of Queen's Bench may also issue an injunction restraining the person responsible for such infringement.

The provinces of Ontario and Quebec both have on their statute books laws expressing the right to freedom of worship in terms which originated in An Act respecting Rectories, the legislation referred to above, which was enacted in the period before Confederation when the two provinces were united. They are the Freedom of Worship Act in Quebec, (R.S.Q., 1941, c. 307) and An Act respecting Rectories in Ontario (R.S.O. 1897, c. 306, which does not appear in the more recent revised statutes but has not been repealed).

Some other statutes dealing with basic rights have been enacted in a number of provinces. There are statutes in all provinces protecting an employee's right to freedom of association in respect to membership in a trade union (Labour Relations Acts). Equal opportunity in respect to employment without discrimination based on race, religion, colour or national origin has been the subject of legislation in six provinces (Fair Employment Practices Acts); and the right of accommodation without discrimination in places to which the public has access has been set out in legislation in Ontario and Saskatchewan (Fair Accommodation Practices Acts).

It is clear from what the provinces have already undertaken in the way of positive legislation to ensure respect for basic rights and redress for persons whose rights are infringed that they have a broad field of responsibility. It may be that the proposed federal Bill may commend itself to provincial governments as a practical kind of measure which each province might also adopt. Such a Bill of Rights would ensure that the legislative body, in carrying out its task of legislating in the broad interests of the electorate, will at the same time scrutinize each legislative proposal from the standpoint of respect for basic human rights and fundamental freedoms; and that in interpreting the laws by the legislative body, the courts would examine them in the light of the statement that they "shall be so construed and applied as not to abrogate, abridge or infringe" the rights and freedoms set out in the Bill of Rights.

ILO Survey Seen Promoting Respect for Human Rights

The ILO's world-wide freedom-of-association survey "may open a new stage in international efforts to promote respect for human rights and fundamental freedoms," ILO Director-General David A. Morse told the United Nations Economic and Social Council at its 26th session.

The factual survey, which is to include on-the-spot studies in ILO member countries, will get underway next year, he said, recalling that the governments of the United States and USSR have asked that survey missions be sent to their countries (L.G., Aug., p. 869).

Canadian Legislation and Measures Prohibiting Discrimination in Employment*

The Canada Fair Employment Practices Act, which came into effect on July 1, 1953, is designed to prevent and eliminate practices of discrimination against persons in regard to employment and in regard to membership in a trade union because of race, national origin, colour or religion.

Parliament, in passing the Act, was translating into law a basic principle of human rights.

As a member of various international organizations, Canada in recent years has subscribed to general declarations of the basic rights and liberties of the individual. For instance, this country accepted the United Nations Charter and declaration of human rights, and the declaration of aims of the International Labour Organization.

Among these declarations of rights was one which this legislation is designed to protect—the right of equality of opportunity in employment. It is recognized that legislation, by itself, cannot entirely change the attitudes of mind which are at the root of discrimination. The discussions that took place while the Act was before Parliament emphasized the need for continued public and private educational efforts to do away with prejudice and ignorance.

Like other federal legislation in the labour field, the Act applies only to works and businesses within federal jurisdiction, but the hope was expressed in Parliament that the legislation would have a far-reaching and healthy influence all across the country.

While the Act lays down penalties for positive acts of discrimination, it is expected that most of the cases that arise will be settled by conciliation, without any need for recourse to the courts. Experience with similar legislation in other places has shown that the existence of the legislation alone is sufficient in many cases to prevent discrimination. Then, too, it is likely that many cases of discrimination will be found to have been caused by misunderstanding or thoughtlessness on the part of one or both of the parties, and that in such cases complaints will be ironed out without difficulty.

None of the provisions of the Act are to be interpreted as requiring anyone to employ a person, or to take any other action, contrary to government security regulations.

The Act states that no employer shall refuse to employ, or continue to employ or otherwise discriminate against, any person in regard to employment, or any term or condition of employment, because of his race, national origin, colour or religion. Further, an employer is not to use any employment agency which practices discrimination against persons seeking employment.

Employers are not to make written or oral inquiries or to use application forms relating to employment that express directly or indirectly any limitation, specification or preference based on race, national origin, colour or religion, except where based on a *bona fide* occupational qualification. There are similar provisions against discriminatory advertising.

The Act also forbids discriminatory actions by labour unions. No labour union may exclude anyone from full membership, or expel, suspend or otherwise discriminate against, any of its members, or discriminate against any one in regard to his employment, because of race, colour, national orgin or religion.

The Act applies to employers in essentially the same industries and undertakings as does the Industrial Relations and Disputes Investigation Act. These are the undertakings which are within the legislative jurisdiction of the Parliament of Canada. It applies also to trade unions, to the extent that their operations fall within federal jurisdiction. The Act does not apply to employers of fewer than five employees, and it excludes non-profit educational, fraternal, charitable, religious and social organizations.

The works and undertakings to which the Act applies include those in navigation and shipping, railways, canals, telegraphs, aerodromes, airlines, radio and television broadcasting, banks and federal crown corporations, as well as to works or undertakings that have been declared to be for the general advantage of Canada, or are outside the exclusive jurisdiction of the provincial legislatures.

A person who feels that he has been discriminated against may make a complaint,

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* Article 2 of the Universal Declaration of Human Rights states, "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"; and Article 23 (1) states, "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment".

Case No. 1

On September 16, 1953, two months after the Act came into force, the first complaint was made under the legislation. The case concerned a Negro stenographer who complained against a firm within the scope of the Act. The person in question charged that she was refused employment on racial grounds. She stated that she had answered an advertisement by telephone and was asked to come to the office of the firm for an interview. When she did, she was informed that the position was filled. No further explanation was given.

Within a short period of time the complainant telephoned the company and spoke with the person who had informed her that the vacancy had been filled. He indicated that the job was still open.

A Department of Labour Conciliator was appointed to investigate the case and he interviewed both the complainant and the officers of the company concerned. It was noted that the complainant was very fair in the discussion of her complaint before the Conciliator and devoid of any bitterness. When the company officials were interviewed they promptly admitted that an error had been made, they fully realized their liability in the situation and were most anxious to make an adjustment. The company to show its good faith, sent an application form to the complainant who, in reply, stated that she had since taken another position. However, the Department was informed by both the complainant and the organization which supported her complaint that they were satisfied that the filing of her complaint here had brought discrimination to light, that suitable amends had been offered and that the practical worth and workability of the legislation had been demonstrated. No further complaints have been received involving this particular company and it is known that the company has in its employment many persons of different colours, races and creeds.

in writing, to the Director of Industrial Relations, Department of Labour, Ottawa. An officer of the Department may then be directed to make an immediate inquiry into the compaint and try to bring about a satisfactory settlement by conciliation. It is hoped that most complaints will be settled at this stage.

If the officer is not able to bring about a settlement, the Minister of Labour is emplowered by the Act to set up an Industrial Inquiry Commission to investigate the complaint and to make recommendations to the Minister as to how it can best be settled. When he receives the final report of the Commission, he will furnish a copy to each of the persons affected, and he may make the report public if he thinks it advisable.

The Minister is empowered to issue any order he considers necessary to carry a recommendation of the Commission into effect and such orders are final and binding on the parties. The Act provides penalties for any person or organization convicted of refusing or neglecting to do anything required by the Act.

The Act provides for recovery of loss of wages suffered by a person who has been discriminated against. When an employer has been convicted of discrimination—that is, when he has discharged an employee contrary to the Act, or has transferred him or laid him off—the court may order the employer to pay the employee compensation for his loss of wages up to the time of the employer's conviction. The court is also empowered to order the reinstatement of the employee in the position he would have held if the act of discrimination had not taken place.

Persons who lay complaints under the Act are protected against retaliatory action. The Act states that no employer or trade union shall discharge or expel any person, or discriminate against him in any way, because he has made a complaint under the Act. There is a similar protection for persons who give evidence or assist in any way in the initiation or prosecution of a complaint.

Before the Act came into force, it was believed that in industry within federal jurisdiction there was a large number of application for employment forms in use which contained questions contrary to the provisions of the Act. It was realized that the existence of these application forms would constitute a major source of complaints. An examination was made by Department of Labour officials of application forms in use in federal jurisdiction and a memorandum was prepared for the guidance of employers, advising them of questions in application forms that would likely be considered discriminatory. The memorandum was forwarded to all employers in the federal field and the Department was most encouraged by the fact that a large number of empolyers expressed appreciation of the memorandum

and stated that they had amended their application forms accordingly. It was obvious from their reaction that at least one problem of discrimination in employment had been lessened.

The Department of Labour decided as a matter of policy from the very beginning of the Act that its conciliation and enforcement provisions must be supplemented by a program of educational publicity. It was felt that such a program would have a beneficial effect on the attitudes of mind that give rise to acts of discrimination, and that education would also tend to reduce the number of complaints and the problem of enforcement.

In the first year of the operation of the Act the Department sponsored a series of radio talks by prominent Canadians on the subject of discrimination (L.G., Sept. 1954, p. 1265; Oct. 1954, p. 1427; March 1955, p. 285). The response to these broadcasts, which were caried over 107 radio stations, was so favourable that the talks were published in pamphlet form and were later published together in a booklet entitled *Do unto Others . . .*; about 30,000 of the individual talks and booklets have been distributed.

In the first year of the Act the Department also printed a pamphlet entitled *No Discrimination in Employment,* the purpose of which was to explain the main provisions of the Act. Again in the first year of the Act, the Department printed posters that explained briefly the purposes of the Act. These posters were given wide distribution.

The Department has also had a policy of broadcasting radio plays on the subject of anti-discrimination in employment. Several of these radio plays have been broadcast every year and the Department will continue to present each year at least two radio plays of this nature. The Department also sponsored a series of radio talks by prominent Canadians representative of Government, church, employers, trade unions, and other groups interested in human rights. These talks are to be published shortly in booklet form. Tape recordings of all the radio plays are available on loan as well as the scripts of the plays.

Each year the Department has placed advertisements outlining the provisions of the Act in 63 foreign language newspapers as well as in several trade union journals. The Department has laso published a pamphlet entitled *Legislation for Fair Employment Practices in Action,* which presented summaries of five sample cases processed under the Act. (These summaries are reprinted in the boxes on these pages.)

Case No. 2

This case history involved a person born in Denmark but living in Canada. He had had nine years' experience in his trade in Denmark and had served five years' apprenticeship in Canada. He applied to his trade union for a union card as a qualified mechanic. Although the local union had been instructed by the national officers of the union, because of representations made to them by the complainant, to issue the complainant a union card or to show valid reason for not doing so, no action was taken by the local. The person aggrieved submitted an official complaint to the Department that he had been discriminated against because of his national origin.

The complaint was processed by correspondence, and the national union officials, when they were notified of the complaint by the Department, immediately commenced a thorough investigation. The officials of the local union took the position that there was a question of the validity of the complainant's apprenticeship papers and also a question of his seniority. The accusation of discrimination was denied.

In this particular case, discrimination was not proved, although there was an indication that because the complainant was a new Canadian, a permanent union card was denied him. Proved or not proved, the result was that the complainant was issued a union card and became a full member of the union concerned.

About 30, 000 of these pamphlets in English and French have been distributed and there is still a constant demand for them.

Another pamphlet entitled *Job Justice in Canada* concerns itself mainly with companies' personnel programs from the point of view of equal job opportunity regardless of race, religion, colour or national origin. The text of this pamphlet is reprinted on page 1226 of this issue.

The Department has purchased several prints of a film entitled "Commencement" which was produced for the President's Committee on Government Contracts in the United States. The Department also sponsors a film produced by the National Film Board entitled "Going to a Fire". This latter film concerns itself with racial tension in a farming community in Western Canada. A film entitled "High Wall," which is the story of the harmful effects of

Case No. 3

This case started when a woman filed a complaint under the Act. She claimed that she had applied for employment in a certain company and that she was discriminated against because of her race.

The case was settled satisfactorily when the company agreed to issue instructions to its personnel stating that no discrimination would be allowed against its present employees on the grounds of race, religion, colour or national origin. The company also agreed to advertise job vacancies in newspapers published in Canada in the language of the country of origin of the complainant. The complainant indicated she was no longer interested in taking a position with the company.

This was considered to be a most satisfactory settlement because the company concerned, which is an important one, has made a radical change in its personnel policy as a result.

racial and religious prejudices, is also being sponsored. From time to time the Department advertises in newspapers and journals the availability of these films. The Department at the present time is studying scrips of a film which it hopes to produce in conjunction with the National Film Board and which will concern itself with discrimination in employment in Canada.

The Minister of Labour has on two occasions concened meetings of persons interested in fair employment practices legislation who are representative of employers, churches, trade unions, and voluntary agencies in the anti-discrimination field. As a result of these meetings a permanent consultative committee is being established.

Formal complaints under the Act since it went into effect in 1953 have been relatively few. The majority of the complaints allege discrimination in employment because of colour; there were several complaints alleging discrimination because of race or national origin and several complaints alleging that there were discriminatory questions in applications for employment forms. To date 29 formal complaints have been made under the Act; all have been settled except one still being investigated. All of the settlements were made at the conciliation stage and there has been no necessity to establish a special Commission. Although the number of cases has not been large, the long-term effects of some of them are quite significant. In some areas, where discrimination in employment had given rise to difficult problems, precedents have been established and new employment patterns have been started. There are still difficult areas but in most of them important advances have been made to combat discrimination.

There are two other federal anti-discrimination measures. One of these, a provision in the Unemployment Insurance Act, provides that it is the duty of the Unemployment Insurance Commission to ensure that there is no discrimination by the National Employment Service in referring workers to jobs. The prohibition of discrimination by Unemployment Insurance Commission officers in the referral of workers to employment has always been a matter of instruction to local officers and this policy was given statutory authority under Section 22 (2) (b) of the Unemployment Insurance Act.

The other measure is an Order in Council which requires that a provision be inserted in all federal government construction and supplies contracts, prohibiting discrimination in employment by the contractor.

The passing of legislation by the federal Government and several of the provincial Governments has strengthened the Commission's efforts to combat discrimination. Local National Employment Service officers are required to draw to the attention of the employer any condition or specification in application for employment forms that appear discriminatory. Placement officers may not take any action on the order or application form until the specification in

Case No. 4

The complaint which started this case was made by a man who claimed that the company had refused to hire him as a cook because of his race. The complainant also stated that the application form which was being used by the company contained a question on nationality which was contrary to the provisions of the Canada Fair Employment Practices Act. After the Department of Labour had investigated the case the company agreed to employ the complainant in another position and said that they would employ him as a cook if he still wanted that job during the next season. The complainant consented to a settlement of the case on this basis.

question has been removed or until a decision concerning it has been given by competent authorities. In the case of employment covered by provincial legislation, cases requiring decision are submitted to the proper provincial authority. Cases subject to federal legislation are submitted to the federal Department of Labour. Where employment is not covered by any existing legislation, decision is given by the head office of the Unemployment Insurance Commission.

In the last two years, three complaints were investigated and in no cases were Commission officers found to be at fault. This is particularly significant inasmuch as the Commission offices made almost three million referrals to employment in this period.

The Staff Training Division of the Unemployment Insurance Commission has a training program in the anti-discrimination field. The training program, which is applicable to all National Employment Service officers and staff, includes a study of the discrimination clause in the Unemployment Insurance Act and a study of the UIC manual. Part of the program includes a study of limitations and specifications in employment application forms and what constitutes a *bona fide* occupational qualification. The program also includes a study of Order in Council P.C. 4138, which probits discrimination in the hiring and employment of labour for Government contracts. The Canada Fair Employment Practices Act is also studied and is discussed paragraph by paragraph on a question and answer basis. A study of provincial legislation concerning discrimination, as it applies to a particular region, is part of the program. The federal Department of Labour's Memorandum for the Guidance of Employers on the status of certain employment inquiries under the Canada Fair Employment Practices Act is a subject of study by the officers and staff of the National Employment Service and there are also round-table discussions concerning anti-discrimination in general.

In the City of Montreal there is established machinery for the National Employment Service officers to meet with employers and trade union groups, when, among other things, the question of discrimination is discussed.

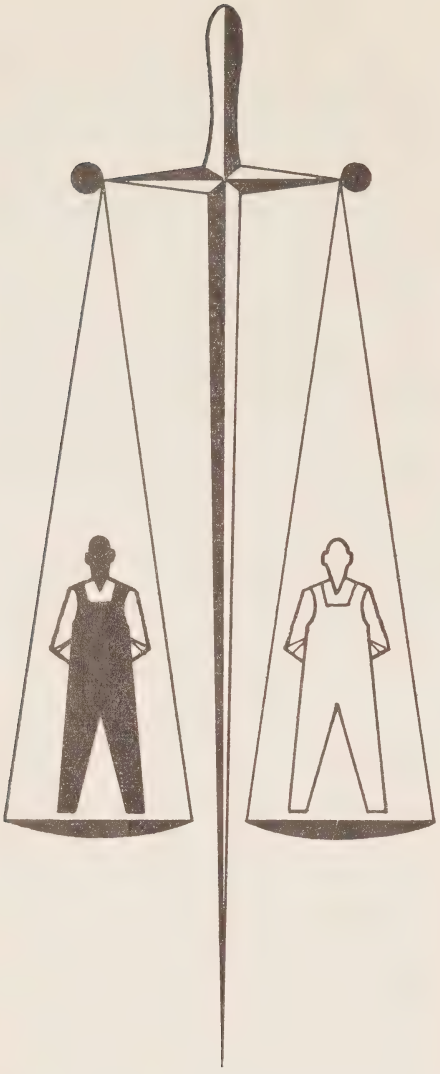
Case No. 5

This case began when a Negro, already employed by his company, claimed that he was denied a promotion to a higher position because of his colour. The Department of Labour investigated and the case was settled when the company agreed in writing that the complainant would receive the next promotion to the same class of position as the one involved in the original complaint. Later on, the complainant was promoted, thus becoming the first Negro to be employed by the company in that position. The settlement of this case was considered a most important one because it is believed to have broken down an employment barrier about which the Negroes of Canada were much concerned.

Since the inception of the Canada Fair Employment Practices Act and other federal anti-discrimination legislation, the Minister of Labour has been given every co-operation by the various employers, trade union and voluntary agencies interested in the prohibition of discrimination.

In the last ten years, six provinces, Ontario, Manitoba, Saskatchewan, British Columbia, Nova Scotia and New Brunswick) have enacted laws outlawing discrimination in employment. Two provinces (Ontario and Saskatchewan) have laws outlawing discrimination in public accommodation and two provinces (Ontario and Manitoba) have laws making restrictive real estate covenants illegal.

The question of methods to combat anti-discrimination in employment has also been dealt with at the international level and Canada has played a very significant role in the development of an international Convention and Recommendation on the subject. (The text of the ILO Convention concerning discriminaton in respect of employment and occupation may be found at page 874 of the August *Labour Gazette* and the text of the Recommendation at page 876.) The Convention is confined to basic principles which command a wide measure of public support and legal sanction. The Recommendation suggests methods of translating and implementing these basic principles into public policy.



Job Justice in Canada

(Text of a Department of Labour folder for distribution to Management)

Some business organizations have an employment policy that is formulated only along very general lines by top management and which does not deal specifically with the subject of discrimination in employment. A failure to include a clear-cut and positive statement and direction on the subject of discrimination in employment on account of creed, colour, race or national origin may have unfortunate and unforeseen consequences.

It may result in a mistaken or lukewarm application of the principle of non-discrimination into the hiring practices of the company by those responsible for the application of the policy.

It leaves the way open for any personnel supervisor who may have prejudices in this field of discrimination to translate his prejudices either consciously or otherwise into his interpretation and application of company policy. In these circumstances, the higher company officers may be unaware that their employment policy, as applied, discriminates against Canadians and persons born outside of Canada because of their creed, colour, race or national origin. Some personnel supervisors, if prejudiced themselves, translate their prejudices into company policy, and believe that because the statement of employment policy does not cover discrimination, they have a free hand.

Whether employment policy deals with fair employment or not makes no difference to the person on the receiving end of discrimination—he is denied employment. He, and others of his race, creed or colour, soon learn that so far as they are concerned the employment door is closed. Discrimination brings moral and economic loss, not only to them but to the employers refusing them employment.

Apart from a consideration of moral principles, a fair employment policy is also good business all round. The best man for the job means better service or more production and their resulting benefits. Employment of a person in a minority group very frequently means income where it is most needed and will be most used—meaning more sales. It should not be forgotten also that persons of all races, creeds and colours are consumers of the services and products of industry and will be inclined to buy where fair employment practices prevail.

Management should have a positive employment policy against employment discrimination, one that provides that merit should be the governing principle in employee selection. Such a policy to be successful must be initiated and supported by top management.

Now, the establishment of a policy in positive terms stating that merit will be the governing factor, regardless of race, religion, colour or national origin, has caused some employers to worry over the reaction which might be expected from employees, from trade unions, from customers, and from the public generally. These fears are usually unfounded. Customers appreciate good service no matter what the source, trade unions have been

leaders in the movement towards equality of opportunity in employment, and employees rarely refuse to work with members of minority groups. As a matter of fact, one of the strongest arguments for the merit policy in employment is that it establishes management as fair-minded in the eyes of the employees. It serves as a guarantee that promotions and other benefits will flow from merit alone.

Any public reaction against the employment of persons belonging to minority groups need not be feared when it is realized that the noisy and bigoted are themselves in the vast minority—nearly everyone wants to be fair. Certainly, no employer, trade union official or community leader should hesitate in choosing between trying to please a bigoted minority or a fair-minded majority of Canadians. Employers who have converted to fair employment testify that the policy does work to advantage. Where the employment door has opened, it has stayed open to the benefit of all concerned.

The federal Government and several of the provinces have legislation governing fair employment practices. The Canada Fair Employment Practices Act, which is the federal Act, applies to employers in works or undertakings under Federal jurisdiction and to trade unions representing persons employed in those undertakings.

The Act has been in effect since 1953 and prohibits discrimination in employment based on race, colour, religion or national origin.

The following questions may help to assess your employment policy. To the extent that the answers are "No", the employment policy is in need of review.

	Yes	No
1. Have you a clear-cut policy of fair employment in hiring as well as in promotions?	——	——
2. Do you refuse to use discriminatory specifications in employment advertising or job orders with employment agencies?	——	——
3. Has your fair employment policy been put into writing?	——	——
4. Is your fair employment policy included in your personnel orientation manual?	——	——
5. Do you explain your fair employment policy to job applicants?	——	——
6. Is on-the-job training open to all employees regardless of race, religion, colour or national origin?	——	——
7. Do you allow persons in minority groups to be employed in all sections of your business rather than restricting them to certain jobs or sections?	——	——
8. Have you made your fair employment policies clear to the unions that represent your employees?	——	——

Equal Pay Legislation in Canada

Equal pay laws are of comparatively recent date in Canada, as in other countries. Their existence, however, is a significant indication that the economic as well as the political rights of women are being accepted by society. At present slightly more than 67 per cent of the women in the Canadian labour force are covered by equal pay laws.

In the early days of the century, woman's struggle for her identity as an individual was concentrated on obtaining political rights equal to those of men. The right to vote and the right to hold public office—these were the objectives of the women's movements and organizations, and the fight to achieve these goals left few persons unmoved.

The Universal Declaration of Human Rights, proclaimed in December 1948 goes further and recognizes the economic and social, as well as the political, rights of all "persons". "Everyone has the right," it affirms in Article 6, "to recognition everywhere as a person before the law". In Canada, the recognition of women as "persons" was first made explicit in 1929 when, during a controversy regarding the appointment of women to the Senate, the Privy Council ruled that under the British North America Act, women have the status of "persons" and are therefore eligible to sit in the Senate.

The value of women's contribution to the labour force was recognized more slowly, to a large extent because women's work outside the home has traditionally been considered of less worth than men's. At the beginning of the Industrial Revolution women were drawn into the labour force in large numbers because of economic necessity and their work was largely unskilled. Not only the employers but the women

themselves took it for granted that they were worth less than men, and accepted without serious complaint lower wages than those paid to men doing the same work. A few sporadic attempts to rectify this injustice were made from time to time but no serious thought was given to the matter until almost the middle of this century.

Change after Second World War

The fundamental change in attitude came during the Second World War. As manpower shortages became acute women began to replace men in jobs that had been considered exclusively men's. In performing these jobs, women proved that they could work as competently and conscientiously as men and it soon became evident that in most jobs, the sex of the worker did not affect the performance of the work. Nevertheless, in most instances, women continued to be paid lower wages than men doing the same jobs. This practice, quite apart from the moral and social injustice it entailed, was soon acknowledged as a threat to the economic status of men. For as long as women could be hired at lower rates than men for the same work, the tendency would be for the whole wage structure to be depressed, and for employers to replace men by women.

After the war, pressure for the adoption of equal pay legislation began to gather strength. Women's organizations and organized labour drew public attention to the economic as well as the moral injustice of current practice. A number of women's organizations, notably the National Council of Women and the Federation of Business and Professional Women's Clubs, pressed for the enactment of equal pay legislation.

In 1950 campaigns for equal pay gained renewed impetus with the adoption by the International Labour Organization of a Convention on Equal Remuneration for Work of Equal Value (No. 100). International recognition of the principle had also been proclaimed with the adoption of the Universal Declaration of Human Rights, which included among economic rights, "the right of everyone without any discrimination to equal pay for equal work" (Art. 23).

Equal Pay Laws in Canada

Ontario was the first province to enact equal pay legislation when it passed the Female Employees Fair Remuneration Act in 1951 (effective January 1, 1952). Saskatchewan and British Columbia followed with the enactment of equal pay acts effective January 1, 1953 and December 31, 1953 respectively. In 1956, the federal government passed the Female Employees Equal Pay Act, effective October 1 of that year, and Manitoba also enacted an equal pay act, effective July 1, 1956. Equal pay acts were adopted by Nova Scotia, effective January 1, 1957 and by Alberta, effective July 1, 1957.

Although there is some variation in the seven acts now in force, the purpose of the legislation is the same—to ensure that a woman who is doing the same job as a man is paid at the same wage rate.

Coverage is very wide. Except in Alberta, where employers of domestic servants and of farm labourers are excluded, the provincial acts cover all employers. In Manitoba and Saskatchewan the provincial governments are also considered as employers under the acts. The federal Act covers only workers in the employ of the federal Government and those who work in a number of specific industries and enterprises whose activities are for the most part interprovincial or nation-wide in scope. The women affected are largely in banks, telephone operations, telegraphy, broadcasting, air and water transport, the railroads or in federal Crown Companies. Classified civil servants are excluded, since they already fall under the jurisdiction of the Civil Service Commission, which sets rates of pay according to classifications based on job content, irrespective of whether the work is to be done by men or by women.

Both the federal Act and the Alberta Act prohibit an employer from paying a female employee at a rate of pay less than the rate paid to the male employee "for identical or substantially identical work". The Ontario, British Columbia and Nova Scotia Acts contain a similar prohibition but refer to "the same work done in the same establishment"; the Saskatchewan Act refers to "work of comparable character done in the same establishment". The Manitoba Act differs from the others in that it forbids discrimination against either sex in the payment of wage rates. Under that Act, an employer is forbidden to pay to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, "if the work required of, and done by, employees of each sex is identical or substantially identical".

Under all the Acts, the woman discriminated against must herself register a complaint in writing with the Minister of Labour or an official designated to receive complaints. The method of securing compliance is also similar in all the legislation and involves investigation and conciliation procedures. Upon receipt of a complaint, an officer (conciliation officer, fair wages officer

or inspector) is appointed to investigate the complaint and to try to effect a settlement. If this is unsuccessful, the matter is referred to a referee (federal Act, Manitoba), a Board (Saskatchewan, Alberta, British Columbia) or a Commission (Ontario, Nova Scotia). These persons or bodies have full powers to make an enquiry, including the holding of hearings, examination of witnesses, etc., and to recommend to the Minister of Labour the course that ought to be taken. The recommendations of the Board, Commission or referee, as the case may be, may be put into effect by an order of the Minister of Labour, except under the federal Act and the Alberta Act, where the referee or investigating board may take action directly. Non-compliance with the orders is considered a contravention of the legislation.

Penalties for non-compliance are in the form of fines, which vary slightly from one province to another. The maximum fine for an individual is $100 and for a corporation $500. Under the federal, Manitoba and Alberta Acts, the employer may also be required to make up back pay.

Under the federal, Nova Scotia, Manitoba and Alberta Acts, employers are prohibited from dismissing, or otherwise discriminating against, employees registering a complaint or giving evidence.

Court action may be brought against an employer under the federal Act and in Nova Scotia, Manitoba and Alberta, but he may not be penalized twice for the same offence.

Implementation

Complete implementation of the equal pay principle cannot, of course, depend solely on the enactment of laws. The interpretation of the laws is also of great importance and here many factors enter the picture. The traditional attitudes towards women's work are slow in changing and the close interdependence between women's social, political and economic roles is just beginning to be appreciated.

Nevertheless, the enactment of equal pay legislation in Canada has served a number of useful purposes. It has publicly condemned the practice of paying a woman a smaller wage than a man doing the same work and set a standard that employers are required to meet. What is perhaps even more important, it has acknowledged women's contribution to the economic life of the country. In practical terms it has brought about equitable adjustment of women's wages and salaries in a number of situations. Moreover, in the long run it may be anticipated that such laws wisely administered will make a substantial contribution to the raising of women's wages in general.

Freedom of Association and Right to Organize in Canada*

In accordance with the constitution of the International Labour Organization, the Government of Canada submits to the ILO periodic reports on the position of national law and practice in regard to matters dealt with in certain ILO Conventions.

Convention No. 87, adopted by the 31st session of the International Labour Conference in 1948, is titled, Freedom of Association and Protection of the Right to Organize Convention, 1948. The following are extracts from the most recent report on this Convention, which was prepared by the Department of Labour.

With regard to the federal field of jurisdiction, the Government of Canada states that the provisions of the Articles of Part I and Part II of the Convention, with the exception of Article 1 which relates to ratification, are implemented by common law and by legislation. At common law there is no legal restriction on the individual's right to associate with others for any lawful object.

Workers and employers in Canada, without distinction whatsoever, are entitled, in so far as federal legislation and practice are concerned, to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

The Industrial Relations and Disputes Investigation Act provides in Section 3: (1) that every employee has the right to be a member of a trade union and to participate in the activities thereof, and (2) every employer has the right to be a member of an employers' organization and to participate in the activities thereof.

* Article 23 (4) of the Universal Declaration of Human Rights states: "Everyone has the right to form and to join trade unions for the protection of his interests."

Persons who do not come within the scope of the definition of an employee in the Industrial Relations and Disputes Investigation Act (i.e., managers, superintendents or any other person who in the opinion of the Canada Labour Relations Board exercises management functions or is employed in a confidential capacity in matters relating to labour relations; and members of the medical, dental, architectural, engineering or legal professions who are qualified to practice under the laws of a province and are employed in that capacity) are not restricted in their freedom to establish and to join organizations of their own choosing, and, in fact, do exercise that freedom.

There are no substantive or formal conditions that must be fulfilled by workers' and employers' organizations when they are being established. The federal Trade Unions Act, which makes provision for the *voluntary* registration of trade unions, sets out that certain matters must be covered in the rules of trade unions registered under the Act. These matters include provisions relating to the investment funds; an annual or periodic audit of accounts, the appointment and removal of a general committee of management, and of a trustee or trustees, and a treasurer; and other provisions for the protection of union members from the misuse of funds or other harm. As indicated above, registration under this Act is permissive, and its provisions do not infringe upon those of the Convention.

Workers' and employers' organizations are entitled to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their programs free from any restrictions. The public authorities do not interfere with this right or impede the lawful exercise thereof.

Employers' and workers' organizations are not liable to dissolution or suspension by administrative authority in so far as legislation and practice are concerned in the federal field of jurisdiction.

Workers' and employers' organizations have the right to establish federations and confederations and to join international workers' and employers' organizations. With regard to workers' organizations, this right is generally enjoyed by virtue of the existing system of international trade unions which are a feature of industrial organization in Canada. There are also numerous instances of Canadian workers' and employers' organizations' belonging to international federations and confederations. With such practical effect being given by the organizations themselves to the provisions of the Convention (in this regard), no special legislative measures are considered necessary.

Federations and confederations of workers' and employers' organizations are entitled, in so far as federal law and practice are concerned, to the same rights as the trade unions and employers' associations of which they are composed with regard to their establishment, their operations and their dissolution. The provisions of (the Convention) in regard thereto are complied with fully.

The acquisition of legal personality is wholly optional for workers' and employers' organizations, and such acquisition, where sought, is not made subject to conditions that restrict the rights described in..... the Convention.

There are statutory provisions to ensure public order and safety but these do not impair the guarantees provided for in the Convention. In the Criminal Code an unlawful assembly is defined as an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they (a) will disturb the peace tumultuously, or (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously. The said Code also defines a riot as an unlawful assembly that has begun to disturb the peace tumultuously. Being a member of an unlawful assembly and taking part in a riot are punishable offences.....

Federal civil servants have freedom to organize, but do not have compulsory collective bargaining rights as provided by the Industrial Relations and Disputes Investigation Act.

All necessary and appropriate measures are considered to have been taken to ensure that workers and employers may freely exercise the right to organize. Employers are prohibited from interfering or participating in the formation or administration of trade unions, from contributing to their support, and from discrimination in regard to employment against any person on account of union membership and activities. Employers and all other persons are prohibited from using coercion or intimidation to compel any person to become or refrain from becoming or to cause to be a member of a trade union (although collective agreements providing for the closed or union

shop or preferential hiring are valid). Protective provisions have been inserted in the Criminal Code to ensure that trade unions are not conspiracies in restraint of trade, and that no person shall be convicted of the offence of conspiracy by reason only that he refuses to work with a workman or for an employer, or does any act for the purpose of a trade combination unless such act is an offence expressly punishable by law. In the latter connection, a trade combination is defined as any combination between masters or workmen or other persons for the purpose of regulating or altering the relations between masters and workmen, or the conduct of a master or workman in or in respect of his business, employment or contract of employment or service.

There is also a "saving clause" in the Criminal Code protecting "combinations of workmen or employees" acting for their own reasonable protection as workmen or employees from being charged with conspiracy to limit commercial facilities, to restrain commerce, to lessen production and to prevent or lessen competition.

Similar "saving clauses" have been inserted in the Criminal Code to protect trade unions in respect of criminal breach of contract (such as preventing the running of trains and depriving cities of light, power, gas or water), and committing mischief (such as obstruction or interference with the lawful use and operation of property).

It is lawful in all the provinces of Canada for workers and employers to establish and to join organizations of their own choosing without previous authorization.

In four of the ten provinces, namely, Manitoba, New Brunswick, Newfoundland and Nova Scotia, the labour relations legislation contains a clause identical with the one in the federal statute which states that every employee has the right to be a member of a trade union and to participate in the activities thereof. Three other provinces, British Columbia, Ontario and Quebec, have similar clauses, differing only in that they refer to participation in the lawful activities of trade unions. The Alberta statute states that it shall be lawful for employees to bargain collectively and to conduct such bargaining through a bargaining agent; elsewhere in the Alberta statute bargaining agent is defined as meaning a trade union. In Saskatchewan, The Trade Union Act states that employees shall have the right to organize in and to form, join or assist trade unions and to bargain collectively through representatives of their own choosing. The Trade Union Act of Prince Edward Island states that it shall be lawful for employees to form themselves into a trade union, and to join the same when formed, a trade union being defined as "any lawful association, union or organization of employees..... which is formed for the purpose of advancing in a lawful manner the interest of such employees in respect of their employment".

All the provinces except Alberta, Prince Edward Island and Saskatchewan provide in their legislation that every employer has the right to be a member of an employers' organization and to participate in the activities thereof. The Trade Union Act of Prince Edward Island does not mention employers' organizations. The Alberta Act defines an employers' organization as meaning an organization of employers formed for the purpose of regulating relations between employers and employees, but does not refer specifically to employers' freedom of association. The Trade Union Act of Saskatchewan presupposes the existence of employers' organizations by defining an employer's agent as including any person or association acting on behalf of an employer.

The coverage of the various provincial labour relations laws does not include managerial personnel or persons employed in a confidential capacity in matters relating to labour relations (the wording varies in certain provincial statutes; for example, the Saskatchewan Act excludes persons "regularly acting on behalf of management in a confidential capacity"). Such exclusion does not restrict the freedom of the persons involved to join organizations of their own choosing.

Professional persons are also excluded from the coverage of the labour relations laws of the various provinces except in Saskatchewan and Prince Edward Island. The laws of seven provinces make the same exclusions as the federal statute, namely, members of the medical, dental, architectural, engineering or legal professions qualified to practice under the laws of a province and employed in that capacity. In Quebec, the Labour Relations Act excludes any person covered by the Bar Act, Notarial Code, Medical Act, Study of Anatomy Act, Homeopathists' Act, Pharmacy Act, Dental Act, Veterinary Surgeons' Act, Civil Engineers' Act, Land Surveyors' Act, Architects' Act, Forest Engineers' Act, Optometrists' and Opticians' Act, and Dispensing Opticians' Act. In addition five provinces exclude domestic servants and farm labourers, and three provinces also exclude persons engaged in horticulture, hunting or trapping. With regard to all such excluded persons, the denial of the privilege of compulsory collective bargaining and the other rights established by the provincial labour relations acts

does not carry with it a denial of the right to join organizations of their own choosing. An example of this is that not a few persons of high managerial capacity retain union cards and maintain themselves nominally in good standing with trade unions long after they have attained a status that excludes them from the coverage of the labour relations legislation.

Association on the part of the classes of persons excluded from the various labour relations statutes is not infrequent in groups such as personnel managers' organizations, but is rather rare in the ordinary trade or industrial sense. However it might be noted, to cite one example, that organizations of professional engineers have been formed in Canada for the purpose of collective bargaining. Public service employees, while not denied freedom of association, are not covered by the provisions of the labour relations legislation of any of the provinces except Quebec and Saskatchewan.* Civil servants and municipal employees, with certain exceptions such as police, do generally enjoy the right to establish and to join organizations of their own choosing without previous authorization, except in the province of Quebec. In practice, employees of provincial governments and of boards, commissions and crown agencies do exercise the right to establish and to join organizations of their own choosing. Although such organizations are not, except in Saskatchewan, recognized formally by the signing of collective agreements, the organizations do further and defend the interests of the workers. Moreover, a considerable number of such workers belong to craft unions with national or international affiliations.

In the province of Quebec, employees of "public services" are expressly stated to come within the application of the Labour Relations Act, subject to certain modifications. Public services are defined as "municipal and school corporations; public charitable institutions within the meaning of the Quebec Public Charities Act (Chap. 187); insane asylums; the following businesses: the transmission of messages by telephone or telegraph, transportation, railways, tramways or navigation, the production, transmission, distribution or sale of gas, water or electricity—excepting railways under the jurisdiction of the Parliament of Canada; and the services of the Government of the province, but only as regards the functionaries and workmen contemplated by the Civil Service Act (Chap. 11) and subject to the provisions of the said Act." The modification of the Labour Relations Act having relevance to the provisions of Convention No. 87, as affecting public service employees, is that no person who is a constable employed by a municipal corporation of the province, or a member of the Quebec Provincial Police Force or of the Quebec Liquor Police, or other functionaries within the meaning of the Civil Service Act (Chap. 11), shall remain or become a member of an association which does not consist solely of persons in the same category or which is affiliated with another association or organization. This curtailment of the right of workers to join organizations of their own choosing is reinforced and supplemented in an "Act respecting Public Order", 1950, c. 37, which states in Section 2:

> An association which admits to its ranks members of a municipal police force, or persons who are at the same time members of such police force and of a municipal department of firemen and which is not exclusively composed of employees of the same category and in the service of the same municipal corporation, or which is affiliated with another association, shall not be qualified to negotiate a collective agreement, nor to be a party thereto, nor to be recognized by the Labour Relations Board of the Province of Quebec as representing a group of employees.

A fairly consistent pattern seems to be in process of developing in Canada in relation to municipal employees and, in particular, police and firemen; but at the moment, there is a lack of uniformity in the application of the labour relations legislation of the various provinces to such employees and to school teachers. There is, of course, no problem concerning police in connection with Convention No. 87, in view of the provisions in Article 9 that the extent to which the guarantees of the Convention are applied to the armed forces and police shall be determined by national laws or regulations. However, the law and practice respecting police are summarized here as a matter of information, along with the law and practice respecting other municipal employees.

As indicated above, in the province of Quebec, municipal employees generally, including policemen, firemen and school teachers, come under the Labour Relations Act as modified by the Public Services Employees Disputes Act, R.S.Q. 1941, c. 169.

In Ontario, the Labour Relations Act specifically excludes from its application members of police forces, full-time firefighters, and teachers as defined in the Teaching Profession Act, R.S.O., 1950, c. 194. Any Ontario municipality may declare

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* The Interpretation Acts of Ontario, Prince Edward Island, Alberta and British Columbia contain provisions which have the effect of excluding public service employees from the application of labour relations legislation.

that the Labour Relations Act shall not apply to it in its relations with its employees or any of them. The Police Act of Ontario states that a member of a police force shall not remain or become a member of any trade union or of any organization that is affiliated directly or indirectly with a trade union (R.S.O., 1950, c. 279, s. 526). The same Act provides for collective bargaining and compulsory arbitration between police associations and the boards or councils of municipalities. The Fire Departments Act of Ontario also contains a procedure for collective bargaining and for final and binding arbitration, but does not prohibit membership in trade unions. It provides that where not less than 50 per cent of the full-time fire fighters belong to a trade union, any request for bargaining concerning remuneration, pensions or working conditions shall be made by the union (and otherwise, by a bargaining committee of employees upon the written request of a majority).

The Teaching Profession Act, 1944 of the province of Ontario applies to persons who are legally qualified to teach in certain schools and are under contract to teach in such schools. The Act declares that every teacher shall belong to the Ontario Teachers' Federation, among the objects of which is to promote and advance the interests of teachers and to secure conditions which will make possible the best professional service. Conceivably a teacher of, say, manual training might be a member of a carpenters' union by his own choice, but for purposes of representation in respect of his professional employment, he could be represented only by the Ontario Teachers' Federation.

In Alberta municipal employees come within the scope of the labour relations legislation, and the same situation exists as in Ontario with regard to the exclusion of police and full-time fire fighters, who are given the right of collective bargaining and compulsory arbitration by virtue of special Acts. Alberta policemen are forbidden to be members of trade unions, as in Ontario. However, Alberta teachers are covered by the labour relations code.

In New Brunswick the Labour Relations Act provides in Section 1 (4) that the council of any municipality may by resolution declare the municipal corporation or any Board or Commission appointed by the Council to be an employer within the meaning of the Act with respect to any group of its employees designated in the resolution. Pursuant to this clause, the City of Fredericton, N.B., on January 13, 1953, passed a resolution declaring the municipal corporation to be an employer within the meaning of the Act in respect of one group of its employees, viz., the permanent policemen. Subsequently, the New Brunswick Labour Relations Board certified the Fredericton Policemen's Federal Protective Association, Local 502 (an affiliate of the Trades and Labour Congress of Canada) as bargaining agent for members of the Fredericton police force. On June 23, 1955, the Supreme Court of New Brunswick quashed the order of certification and a further order of the Board requiring the City of Fredericton to bargain with the union. In its judgment the Court held that police officers were public servants charged with the administration of the law, and not employees of those who select them and even pay them (L.G., 1956, p. 86). As a result of this court decision, the New Brunswick Legislature adopted, and Royal Assent was given on March 7, 1956, to an amendment to Section 1 (4) of the Labour Relations Act providing that if the municipal council or Board or Commission is empowered to prescribe conditions of employment for police officers, the police officers will be deemed to be employees within the meaning of the Act. As regards firemen, the New Brunswick Labour Relations Board has held them to be employees within the meaning of the Act. No statutory provision relates expressly to school teachers, and no precedents or practice have developed in regard to them so far as is known. They would be covered if a municipality by resolution declared the school board to be an employer under the Act.

The Nova Scotia Labour Relations Board denied an application for certification made in 1950 by the Canadian Association of Policemen (Dartmouth Branch) for the reason that policemen were not employees within the meaning of the Trade Union Act. The Board's decision was upheld on July 13, 1951, by the Supreme Court of Nova Scotia in a judgment which dismissed an application to have the Court quash the Board's rejection of certification (L.G., 1951, p. 1697). The Nova Scotia Act does not refer specifically to fire fighters but they are deemed to be included along with other municipal employees. The Nova Scotia Teachers' Union Act was amended in 1953 to provide that where a majority of the teachers employed by a school board are members of the Union, i.e., The Nova Scotia Teachers' Union, the Union may negotiate with the school board on behalf of all teachers employed by that board in respect of salaries and conditions of employment.

The labour relations law of Prince Edward Island does not make reference to the inclusion of municipal employees, policemen, fire fighters or teachers. However, the provincial Supreme Court in November 1955 held that the Trade Union Act does not and cannot apply to the electric light and power department employees of the Town of Summerside.

In Newfoundland, municipal employees come within the scope of the Labour Relations Act. Policemen, fire fighters and teachers are not expressly mentioned. They appear to be covered.

In British Columbia, municipal employees, including teachers, come within the scope of the labour relations law. Policemen and fire fighters also come within the scope of the Labour Relations Act (formerly the Industrial Conciliation and Arbitration Act) but its application to them is modified by the following amendment to the Municipal Act (1949, c. 41, s. 528B):

528B. Where a Conciliation Board has been appointed under the Industrial Conciliation and Arbitration Act to deal with a dispute between a municipality or Board of Police Commissioners and the firemen or policemen employed by the municipality or Board of Police Commissioners, a recommendation of the Conciliation Board shall be binding in every respect upon the municipality or Board of Police Commissioners and upon the firemen or policemen employed by the municipality or Board of Police Commissioners.

The applicability of the Industrial Conciliation and Arbitration Act to police and the effect of Section 528B of the Municipal Act of British Columbia were tested in the courts ..... The Supreme Court of British Columbia ..... upheld the binding effect of Section 528B of the Municipal Act. The Court's view was that the section of the Municipal Act used the word "employed" and, whether or not it was an accurate description of the relationship, it was the intention of the Legislature to deal with the relationship that existed and to employ certain machinery provided by the I.C.A. Act. This decision was appealed to the Court of Appeal of British Columbia and the appeal was dismissed.....

No trade union comprising or representing the members of a municipal police force may be certified by the Manitoba Labour Board if the union is, or is a branch or local of, or is affiliated with, any provincial, national, or international trade union or association of trade unions. Other municipal employees, including fire fighters, come within the scope of the Act without qualification. A 1956 amendment removed school teachers from the coverage of the Labour Relations Act.

Municipal employees come within the scope of the Saskatchewan law concerning labour relations. The City Act (R.S.S. 1953, c. 137), supplements this with the following provisions in Section 51:

For the purposes of every act or regulation concerning wages, hours and conditions of work, trade unions, labour relations or any matters governing employment, and subject to the provisions thereof, every officer, servant and employee of the city, including every member of the police force, shall be deemed to be an employee, and the city and any board, commission and agency appointed by the council or established by or under this Act and responsible for the payment of wages to any officer, servant or employee or to any member of the police force shall be deemed to be an employer.

The City Act provides further that councils may agree to refer any matter governing employment to a board of arbitration whose decision may be final and binding; and disputes affecting policemen and fire fighters must be submitted to binding arbitration by virtue of provisions in the City Act and the Fire Departments Platoon Act. The Saskatchewan Teachers' Salary Negotiation Act provides that a group of teachers shall have the right to organize and to bargain collectively on their own behalf or through a committee selected for the purpose by the majority of the group.

A limitation on the right of workers to join organizations of their own choosing exists in the Ontario Labour Relations Act in a provision stipulating that the Labour Relations Board shall not include in a bargaining unit *with other employees* any person employed as a guard to protect the property of his employer, and no trade union shall be certified as bargaining agent for a bargaining unit of such guards if it admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards.

A provision of the Professional Syndicates Act of Quebec (R.S.Q. 1941, c. 162, as amended, s. 4) states that married women may be members of a professional syndicate (i.e., a trade union incorporated under the provisions of the said Act) "except when the husbands object". This limitation does not apply to unions that do not seek incorporation under the Professional Syndicates Act.

At its 1953-54 session the Quebec Legislature amended the section of its Labour Relations Act relating to the filing of petitions for certification by adding the following paragraph:

As from the 3rd of February 1944, on which date the Act to constitute a Labour Relations Board was assented to, an association which tolerates, among its organizers or officers, one

or more persons adhering to a communist party or movement cannot, for the purposes of this Act, be regarded as bona fide association and its recognition, as contemplated by this section, as the representative of a group of employees or of employers, shall be refused or revoked, as the case may be.

Subject to the limitations enumerated above, most of which are of a minor nature, workers and employers in Canada are entitled under provincial law and practice to join organizations of their own choosing.

Generally, workers' and employers' organizations are, insofar as provincial legislation is concerned, entitled to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their programs. However, certain substantive or formal conditions must be fulfilled by workers' organizations in certain provincial jurisdictions.

The Quebec Professional Syndicates Act provides for the incorporation of a trade union provided that 20 persons or more, "Canadian citizens", engaged in the same professions, the same employment or any similar trades, or doing correlated work..... make a petition to the Provincial Secretary and provided that only Canadian citizens may be members of the administrative council of the syndicate (union) or form part of its personnel.....

The Trade Union Act of Prince Edward Island states in Section 27 that the Lieutenant-Governor in Council may make regulations prescribing the manner in which a trade union may be formed; but no such regulations are known to have been made.

The Trade Union Act of the province of Newfoundland prescribes that the rules of every trade union are binding upon its members, and that they shall state or contain certain enumerated types of provisions, such as a provision for the appointment and removal of a treasurer and other officers, and prescribing also that a change of name or amalgamation may be made only in a certain manner.

The Nova Scotia Teachers' Union Act (1951, c. 100) prescribes in precise detail the objects, powers, and other constitutional details of the Teachers' Union, with minor omissions such as the amount of fees payable. As indicated earlier in this report, by an amendment to the Act made in 1953 (c. 97), the said Teachers' Union was endowed with the right to represent teachers for the purpose of collective bargaining where the majority of the teachers employed by a school board are members of the Union.

Teachers are required as a condition of their employment to be members of the appropriate teachers' federation or society by the Teaching Profession Acts (the name varies) of Alberta, Saskatchewan, Manitoba, Ontario, and British Columbia, as well as Nova Scotia. These statutes usually prescribe the framework of a constitution, giving the teachers' associations powers to set up a code of ethics for the profession and to make their own special rules and by-laws.

Employers' and workers' organizations in Canada are not under provincial laws and practice liable to dissolution or suspension by administrative authority, except for two minor legal provisions in the province of Quebec relating to "dominated" organizations which have, in effect, ceased to function or have lost their original character.

Section 50 of the Quebec Labour Relations Act provides that if it be proved to the Labour Relations Board that an association has participated in an offence against Section 20 (which relates to employers or their agents seeking to dominate or hinder the formation or activities of an association of employees, or vice versa) the Board may, without prejudice to any other penalty, decree the dissolution of such an association after giving it an opportunity to be heard and to produce any evidence tending to exculpate it.

The Professional Syndicates Act of the province of Quebec provides that the corporate existence of any syndicate, union, federation or confederation shall terminate whenever the Provincial Secretary so enacts after having ascertained that they have ceased to exercise their corporate powers; or that the number of their members who are Canadian citizens and in good standing is reduced to fewer than 20, in the case of a syndicate, and to fewer than three in the case of a union, federation or confederation; or in the case of a syndicate when more than one third of its members are not Canadian citizens.....

In the limited field of jurisdiction where the Parliament of Canada is the competent authority with regard to the provisions of Convention No. 87, it is considered that adequate effect is given to all the provisions of the Convention. In the field of jurisdiction where the provincial legislatures are the competent authorities, it is considered that there is very substantial compliance with the provisions of the Convention, but that certain guarantees set out in the Convention are subject to limitations which fall short of giving full effect to the said provisions.

The Evolution and Application in Canada of Rights Relating to Motherhood and Childhood[1]

I—Entitlement to Special Care and Assistance

Recognition that motherhood and childhood are entitled to special care and assistance is of long standing in Canada. Over the years much legislation[2] has been passed and many programs have been established with the common aim of providing to mothers and children the special protection, care and assistance they require.

At no time in Canadian history have women and children as a whole occupied a seriously disadvantaged position. The Canadian population has been drawn largely from countries in Western Europe which for several generations have led in the improving of social provisions for these two groups. Persons emigrating to Canada have tended, moreover, to create new social patterns suited to the conditions of their adopted country.

The social patterns that emerged during Canada's formative years were strongly influenced by pioneer conditions and by the existence of an expanding frontier. The circumstances of pioneer life tended to promote the raising of large families in which children were regarded as assets. The wife and mother in performing the manifold duties that fell to her in respect to the home, the farm economy and the raising of children achieved a role of great importance that implied an equal or near equal status to that of the husband.

The emphasis on self-reliance and individualism which was also characteristic of the frontier society has continued to be a pervasive influence in Canadian life. While the area of public responsibility and of other kinds of collective endeavour have progressively expanded, providing numerous types of support and assistance to the individual and the family, the concepts of personal and family responsibility are still highly honoured both in precept and practice. Thus the primary responsibility for providing care and assistance to the Canadian mother and child is to be found centered in the family, which under normal circumstances is regarded as capable of safeguarding and preserving the essential interests of motherhood and childhood.

However, even in the early stages of Canadian development, when the farm family and the close-knit rural community offered a large measure of security to its members, there were many unmet needs, especially among arriving immigrants and the survivors of the periodic epidemics which frequently left widows and orphans without protection or means of support. Where the need in such situations was acute, voluntary organizations were formed and programs of assistance established, usually based on an institution providing shelter and custodial care.

While the nineteenth century's answer to the needs of motherhood and more particularly of children was mainly expressed by the establishment of institutions, the limitations of this approach became recognized and the last quarter of the century saw the beginning of other and ultimately more fruitful solutions. What was begun in the nineteenth century was carried forward at an accelerated pace in the twentieth, when the combined effect of a growing population, especially in the cities, participation in two world wars, and the experience of a prolonged depression served to focus attention upon the needs of mothers and children and to bring into being a broad array of special protective measures and services in the fields of welfare, education, corrections and health.

Although many of the measures that have been of great benefit to mothers and children were specifically aimed at meeting their special needs, others have been of more general application or have combined provisions for mothers and children with provisions for other groups. As Canada extends its social provisions, the emphasis is, in fact, increasingly upon programs of broad coverage. In these, mothers and children benefit in like measure with other components of the total population, though there is differential treatment in some instances where this is feasible and appropriate.

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[1] A statement relating to article 25, paragraph 2 of the Universal Declaration of Human Rights: "Motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection."

[2] Towards the end of the 1958 Session of Parliament the Prime Minister introduced Bill C-60, entitled *An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms,* legislation which would, of course, affect not only mothers and children but all Canadians.

Organization of Social Welfare Services

The organization of social welfare services is, by the terms of the British North America Act, and by tradition, largely centered in the provinces. The federal Government, however, administers certain broad social security measures, some independently and others in partnership with the provinces. It also has certain powers in the field of corrections as well as responsibilities for veterans' programs and programs for Indians and Eskimos. Provincial legislation governs welfare services generally within the provinces and includes, among others, public assistance and the complex field of child protection. The provinces have delegated considerable responsibility to local governments, and, in the field of child welfare, to private or quasi-private social agencies.

Welfare Services for Children

An aspect of changing conditions in Canada that came forceably to public attention in the 1880's was the increasing numbers of children in the larger centres who were found to be growing up without proper care or supervision. To meet the problem the children's aid society movement came into being, becoming, as it remains today, a major factor in child welfare in Canada. Children's aid societies, which developed first in Ontario and later in most of the other provinces, express the interest of private citizens who form their membership, make up the majority of their boards of directors and contribute financially to their programs. In carrying out provincial legislation under provincial supervision and with financial aid from the municipalities and the provinces, the societies also express public responsibility for child welfare.

By the 1920's the societies moved beyond their initial concern for child protection to the areas of adoption and work with unmarried parents. They thus pioneered in the establishment of the comprehensive child welfare programs which are now in being across Canada. Many such programs continue to be administered by children's aid societies, but wholly public programs predominate in Western Canada, Newfoundland and Prince Edward Island. Quebec has a distinctive pattern in which child welfare agencies and institutions operate largely under religious auspices with substantial financial assistance from the provincial government.

Within programs organized in these various ways service is given to many thousands of children annually. Every effort is made to strengthen the capacity of the children's own families to give children acceptable care. Where this is not possible and where wardship is transferred either temporarily or permanently by the court from the parents to a child welfare agency, substitute care is provided by the agency. Where the agencies' wardship is temporary the children are normally placed in foster homes where they are supervised by the agency. Institutional placements are also used but the limitations of long-term custodial care for children are generally recognized and the trend away from such placements continues. There is, on the other hand, an increased use of institutions able to provide specialized programs for children presenting problems such as severe emotional disturbances which cannot be successfully dealt with in normal foster homes. Where children are removed permanently from their parents, agencies attempt to find adoption homes where the child will once again have a family of his own and enjoy a measure of security and sense of belonging not normally provided by other forms of substitute care. Where children are born out of wedlock adoption is the normal plan made for them. More than 10,000 adoptions are completed annually in Canada.

Child welfare agencies in Canada, both public and private, though handicapped in varying degrees by the lack of qualified social work staff and by limited financial resources, have developed and are continuing to develop programs which are making a highly important contribution to the provision of the "special care and assistance" to which children are entitled.

Educational Provisions for Children

The right of children to an education that will fit them for economic, cultural and political participation in contemporary society has long been recognized in Canadian life. The provision of elementary education to the great majority of children was achieved well before Confederation in 1867. In the decades that followed, education became free and compulsory, with the effective enforcement of attendance beginning in the 1890's. By the turn of the century illiteracy had dropped in some provinces to less than 10 per cent of the adult population and progressive reductions of this figure have been characteristic of succeeding decades. Secondary education, which was widely available before the beginning of the century, has also become increasingly accepted as a necessary preparation for modern living. Technical and commercial courses have been added to the original academic sequence required for university

entrance. More than 95 per cent of Canadian children attend primary and secondary schools in which all costs are borne by public funds.

The rapid increase in the number of children of school age in the country in the postwar period has involved heavy requirements for additional teachers, classrooms and other facilities. The strong emphasis placed on education in Canada as an inherent right of the child and as an essential in the national interest, however, has resulted in an encouraging degree of progress in solving the problem of shortages.

The right to higher education of children with the necessary capacity is gaining increasing recognition. A broad program of university expansion is proceeding, which involves extensive public and private financing both for new facilities and for enlarged bursary and scholarship funds. The establishment of the Canada Council, with a program of assistance to both the arts and sciences through grants to individuals and to universities, has been a significant development in the provision of assistance to learning in Canada.

Protection of Women and Children in Industry

Factory Acts began to appear on the provincial statute books from the 1880's onward. From the beginning they emphasized the protection of women and children through specifying the hours, conditions and types of work that should apply to them. Subsequently there has been progressive improvement in the standards required and in the quality of the inspection by which they have been enforced.

In 1954 the federal Government established a Women's Bureau within the Department of Labour to promote a wider understanding of the role and contribution of women in the labour force and to advance their opportunities in employment.

Income Protection of Mothers and Children

The realization that the needs of many mothers and children spring from a lack of financial support because of the illness, death or desertion of the husband and father has led to the development in Canada of many income support measures.

At the beginning of the century there was little support for a family that had lost its breadwinner. In provinces which had adopted the English Poor Law the support provided was normally limited to indoor care in public almshouses. In the province of Quebec, institutional care under voluntary auspices was also all that was generally available. Where, in certain other provinces, assistance was given to families in their own homes it was seldom adequate and was usually temporary.

Of the specialized programs established to remedy the defects in general assistance, workmen's compensation programs were the first to be organized. While they were designed primarily to achieve the objectives of industrial safety and the support and rehabilitation of injured workmen, they also provided pensions for the widow and children of the workman who was killed in an industrial accident.

The precedent set in providing pensions to persons bereaved by industrial accidents and, with the First World War, to those whose husbands and fathers were lost in action, served to strengthen the case for pensions to all mothers who were deprived of the financial means of caring for their children. In 1916 the first provincial mothers' allowances program was established and by 1949 all provinces had programs providing aid to widows with dependent children and to mothers with husbands in mental hospital. In some provinces eligibility is now extended to divorced, separated, deserted and unmarried mothers and to mothers whose husbands are disabled or are in penal institutions. The allowances, which vary from province to province, are payable while the mother is caring for one or more children.

While certain mothers who have been deserted by their husbands may, as noted, receive support under the mothers' allowances programs, other basic measures for their protection are found in legislation designed to enforce their maintenance by legal action against the deserting father. Such legislation exists in the Criminal Code of Canada and in provincial statutes, the latter providing that orders for maintenance may be made against a deserting parent on presentation of evidence of desertion. The desertion legislation also makes possible the enforcement of the court orders of other jurisdictions on a reciprocal basis.

Two federal income security measures of broad coverage, Unemployment Insurance and Family Allowances, were adopted in the 1940's. The former, which offers protection in cases where the breadwinner is unable to find work, provides coverage for the large majority of wage earners, while the latter extends to virtually all families with children.

Family allowances, which are paid in respect to children up to age 16, are designed primarily to lessen the economic handicap of families with children. The allowance,

which is paid to the mother, is $6.00 a month for children under 10 years of age and $8.00 a month for children aged 10 to 16. Allowances must be used for the child's maintenance, care, training, education and advancement and the child is required to comply with the school attendance regulations of the province in which he lives. Immigrant families with children and settlers returning to Canada do not qualify for family allowances during the first year but under a family assistance program they can, on application, receive a sum of $60 annually for each child under the age of 16, on a basis similar to that for family allowances.

Mothers may also benefit, when eligible, from such services as the federal-provincial blindness and disability programs. The federal war veterans' allowances program, which is designed to aid veterans and their families not eligible for veterans' pensions, may apply to both mothers and children.

Programs designed to assist particular categories of persons, such as mothers and children, have achieved a substantial measure of success in reaching their objectives. They have a number of limitations, however, and a trend away from them and towards adequate and flexible general assistance is discernible in a number of provinces. In recent years the federal Government under the unemployment assistance program has made contributions to participating provinces in respect to assistance costs which are, in the main, those involved in the provincial general assistance programs. It appears that the general assistance programs will be broadened and that they will succeed in attaining broader coverage without endangering the interests of groups such as mothers and children whose rights and benefits have been specified in the categorical programs.

Correctional Programs for Women and Children

Up to the middle of the nineteenth century women and children charged with criminal offences were confined, along with adult male offenders, in the common gaols. The serious social damage resulting from this lack of segregation led to a movement for the establishment of institutions more likely to promote the reformation of the inmate. Accordingly the first juvenile reformatory for boys was established in 1857, the first women's prison in 1878, and the first reformatory for girls in 1880.

An important forward step was taken in 1909 with the passage of the Juvenile Delinquents Act of Canada, which made possible and encouraged the adoption, in the provinces, of a social approach to juvenile delinquency. The federal legislation sets out a number of acts which when committed by a child constitute an offence known as a delinquency. When a child is adjudged to have committed a delinquency he is dealt with by the court not as an offender "but as one in a condition of delinquency and therefore requiring help and guidance and proper supervision". The judges of the juvenile courts established by the provinces are thus given wide discretionary powers. To assist them in treating the juvenile delinquent the Judge normally has, as an integral part of the court, a probation staff of one or more part-time or full-time officers. Special institutions generally known as "training schools" or "industrial schools" have been established in most provinces to provide correctional care for juveniles for whom probation is considered unsuitable.

Health Programs for Mothers and Children

The Canadian family has traditionally obtained the major part of its health services on a private basis, but publicly organized programs have played an increasingly important role. Mothers and children benefited with the rest of the population from measures to combat communicable diseases, which were instituted in the 1880's, but infant and maternal death rates remained high and it became increasingly apparent by the early years of this century that special public health measures were required to meet the needs of mothers and children. During the last 50 years and especially since the end of the Second World War great strides have been made in developing pre-natal and post-natal services, providing maternity beds and bassinets, reducing the incidence of childhood diseases and developing programs of treatment and rehabilitation for crippled children.

Progress in providing better health care for mothers and children reflects a recognition by voluntary groups and all levels of government of the importance of meeting the health needs of these groups. At the local level, health departments or health units provide a wide range of direct services in association with hospitals, physicians and voluntary health agencies. All ten provinces have maternal and child health programs within their health departments, six having special divisions under full-time medical direction. The federal Department of National Health and Welfare also has a maternal and child health division offering consultative services. Mothers and children have benefited from the National Health

Grant program, which has assisted in the development and extension of maternal and child services, research and the training of personnel.

Mothers and children have also benefited from the decided trend towards public assumption of hospital and, to a lesser extent, medical costs. Free or assisted maternity services have been established in a number of provinces and one province has selected children under 16 years of age as a group to receive, free of charge, full hospital care including medical and surgical services. In four provinces public prepaid hospital insurance has been in existence since the early postwar years. The federal-provincial program of hospital and diagnostic services now being instituted under the Hospital Insurance and Diagnostic Services Act of 1957 will be functioning in a majority of the provinces by January 1959.

The great majority of Canadian mothers receive pre-natal care from their private physician, though an important role is also played by the Victorian Order of Nurses, a voluntary nursing organization, and by local public health units. The practice of confinement in hospital is well established in Canada, with about 87 per cent of all births occurring in maternity or general hospitals. In the majority of provinces almost 100 per cent of births take place in hospitals and only two provinces have a significant proportion of home confinements. Post-natal care of the mother and early care of the infant is also largely provided by private physicians but an increasingly important part is played by the public health nurse. Nursing visits are made to the home, and well-baby clinics for health supervision of infants and pre-school children are widely available wherever there are organized public health services.

Children also receive health care through school health services which have been established in every province. These services include visual and audiometric testing, general medical examinations and, in some provinces, preventive dental health services. In addition, school health services are concerned with the school environment and involved in the health teaching program.

Major emphasis in the protection of children's health has been placed on immunization programs. A notable example of the successful application of such procedures has been in the anti-poliomyelitis campaign. Through agreements with the federal Government the provincial health departments have made the Salk vaccine available for free inoculation of children and most provinces also provide care free of charge or at nominal cost to poliomyelitis patients during the acute and post-paralytic stages of the disease. The dramatic reduction in the incidence of this disease constitutes the most recent chapter in the long story of success in attacking the principal diseases of childhood.

There are also special programs for handicapped children. Institutions for the training of blind and deaf children, hospital schools for the mentally deficient, and special classes for hard of hearing and partially sighted children provided by local school boards have been in existence for many years. More recent developments have been classes for orthopedically handicapped and cerebral palsied children as well as classes for mentally retarded children not accepted in the regular schools. Many of these, initiated by parent groups and supported by voluntary means, are increasingly receiving government assistance. Special education programs are found in all the children's hospitals rehabilitation centres, and most tuberculosis sanatoria.

Programs for emotionally disturbed children are also being developed in many parts of the country as child guidance services become available and as specialized institutions are able to obtain the qualified staff required for their successful operation.

Children needing hospital care are normally treated in general hospitals serving all groups but there are also five general hospitals for children, four children's orthopedic hospitals and a number of rehabilitation centres.

Crippled or physically handicapped children have received increased attention in recent years as the concept of what constitutes a handicapped child has been broadened and as increased diagnostic and treatment skills and facilities have become available. Programs combining public and private endeavour are now organized in all provinces. They include case finding, team diagnostic appraisal, treatment and a range of rehabilitation services, including education designed to bring the child to his full potential.

It will be evident that in the field of health, as in welfare, education and corrections, extensive provisions have been made in Canada to provide the special care and assistance to which motherhood and childhood are entitled.

11—Equal Social Protection of Children Born out of Wedlock

Substantial progress has been made in Canada in establishing the principle that "all children whether born in or out of wedlock shall enjoy the same social protection".

The position of the child born out of wedlock reflects social attitudes towards illegitimacy. Strong moral disapproval continues in respect to extra-marital sexual relations; but the disposition to stigmatize the illegitimate child has been greatly reduced. There is now, in fact, very general recognition of the right of the child born out of wedlock to equal treatment in relation to public measures affecting children.

Most substantial progress to this end has been made since the First World War. Prior to that the very limited rights accorded to the illegitimate child under the English common law had only gradually been enlarged in the provinces in which English civil law had been adopted. In the province of Quebec, a somewhat different situation prevailed; but there too a gradual improvement in the actual condition of children born out of wedlock had occurred. Legislation for the protection of children of unmarried parents, dating mainly from the 1920's, marked a significant forward step. It provided protection of children born out of wedlock both through legal means and through bringing programs designed to assist them and their unmarried mothers within the framework of a comprehensive child welfare program.

A major aim of the legislation for children of unmarried parents is to help such children through assisting the unmarried mother. This takes the form not only of creating more effective means than were previously available for the unmarried mother to obtain financial support from the putative father but it also makes available casework services designed to assist her with a wide range of problems in respect to plans for her confinement, relations with her family and the putative father and her rehabilitation in the community following the birth of the child. Assistance is also provided to the unmarried mother in reaching a mature decision about the future of her child.

Where the unmarried mother decides to retain and raise her child, the child welfare agency may assist her in this plan, perhaps through providing a temporary placement of her child. Public financial assistance is available to her in some provinces and in four provinces she is eligible for mothers' allowances. She will also receive federal family allowances, which are paid without respect to birth status to the mother as long as she is supporting the child. These forms of assistance notwithstanding, the unmarried mother finds that there are formidable problems in bringing up a child out of wedlock in most Canadian communities. Frequently the unmarried mother asks the assistance of a child welfare agency in placing her child or finds some private means to this end.

For many years a large proportion of children born out of wedlock were raised in foster homes or institutions. Adoption, however, is now regarded as the plan which should be considered for virtually all children born out of wedlock who are made available for adoption by the decision of the unmarried parent to surrender her guardianship of the child. The goal of adoption placement is increasingly being realized in all parts of Canada. Adoption, ensuring as it does the acceptance of the child as an integral member of the adopting family, attains to a degree perhaps not otherwise possible the objective of providing to the child born out of wedlock the same social protection as that enjoyed by other children.

In addition to forms of financial assistance available to unmarried mothers who undertake the upbringing of their children and the vigorous adoption programs that are meeting the needs of most children placed with child welfare agencies, there are other measures designed to improve the position of the child born out of wedlock. Among these are to be mentioned birth certification procedures and legitimation laws. Short form birth certificates which give information relating only to the individual concerned and thus do not disclose birth status are generally available in Canada. Children born out of wedlock to parents who subsequently marry may be legitimated under legislation in effect in all provinces.

While the objective of assuring social protection for children born out of wedlock equal to that extended to other children has not been reached and may never be fully achieved, the progress made in the past four decades suggests that continued gains will be made in the years ahead. A climate favourable to equal treatment is increasingly evident. It is being progressively translated into means of assisting the unmarried mother with the financial and other aspects of raising her child, in the removal of discriminatory social practices and in the improvement of child welfare programs, especially those relating to adoption.

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The International Protection of Trade Union Freedom

A Book Review

The development in recent years of international action for the protection of freedom of association for trade union purposes is described, and an evaluation of the importance of existing international guarantees and standards and of the effectiveness of existing procedures is attempted, in *The International Protection of Trade Union Freedom,* a recent book by C. Wilfred Jenks, Assistant Director-General of the International Labour Office*.

An attempt is also made in the book's final chapters to estimate the significance of contemporary developments concerning freedom of association for the future of international organization and for the general theory of international law.

The book is based on experience relating to two ILO Conventions: No. 87—Freedom of Association and Protection of the Right to Organize, 1948, and No. 98—Right to Organize and Collective Bargaining, 1949. The experience comprises 153 allegations of infringement of trade union rights referred to a Committee on Freedom of Association established by the ILO Governing Body.

Each member of the ILO that has ratified these Conventions—when the book was written, 23 had ratified No. 87 and 26 had ratified No. 98—is required to report annually to the International Labour Office the measures that it has taken to give effect to the Convention. Members that have not ratified the Conventions are required to report at appropriate intervals the position of their law and practice in regard to the matters dealt with in the Convention. (For extracts from the most recent Canadian report on Convention No. 87, see page 1229).

The Committee on Freedom of Association, made up of members of the ILO Governing Body, examines allegations of infringements of trade union rights and reports to the Governing Body whether further examinations of an allegation is necessary, and whether the allegations, if proved, would be an infringement of trade union rights, whether the allegations are so purely political in character that it is undesirable to pursue the matter further, or are too vague for consideration, or whether the evidence is insufficient. If the Committee reports that the case should be examined further, the Governing Body may seek the consent of the government concerned for further fact-finding and conciliation procedures.

The 153 cases referred to the Committee involved 67 governments in all parts of the world. In 137 of them the Committee had, when the book was written, submitted final or interim conclusions, and its reports had been approved by the Governing Body. The development of an international procedure for examining allegations and grievances is, in the author's opinion, clearly worthy of study. It represents a significant contribution to the development of international procedures for the examination of petitions and complaints made by private persons or bodies to international organs.

Out of the wealth of material in this book on the subject indicated above, readers of the LABOUR GAZETTE would find of particular interest the author's analysis of what are the essential principles in the body of precedent that has been built up on the subject of trade union freedom. Some indication of the contents of these chapters is given in the paragraphs which follow.

The general standards taken into account by the Freedom of Association Committee are the standards set out in the Conventions. Whether or not members have ratified a Convention, the Committee, in examining allegations, is guided by its provisions. The author points out that these standards have been approved after the most thorough and prolonged investigation and discussion by bodies representative of governments, employers and workers alike for all parts of the world. They represent a consensus of view based on the experience of many countries. In considering whether the facts alleged in the complaint would, if proved, constitute an infringement of trade union rights, the Committee, in applying general principles to specific situations, has developed an interesting body of precedents on some of the major questions in industrial relations facing many countries at the present time.

The essence of fredom of association is the right of workers and employers to establish and join *"organizations of their own choosing"*. The Committee has been critical of the absence of any freedom of choice in cases in which there is, in law or in fact, a monopoly of the right of association. It has recommended reconsideration by the government concerned of regimes characterized by the co-existence of two or more types of workers' organizations, of which one enjoys an official approval denied the others. Another situation, which

* Jenks, C. Wilfred, *The International Protection of Trade Union Freedom,* New York, Frederick A. Praeger, Inc., 1957. Pp. 592.

they found inconsistent with the principle, was a proposed provision in connection with a law dealing with registration of trade unions whereby "the Registrar may enrol an applicant union for any particular industry in any particular area if he is satisfied that no other union is enrolled or registered for that industry in that area".

In applying the principle that workers and employers may establish and join organizations of their own choosing "without distinction whatsoever," the committee has regarded the principle of non-discrimination on political grounds as applicable irrespective of the nature or tendency of such discrimination. Most of the allegations submitted to the Committee on this issue have related to anti-Communist legislation. The Committee recognizes that conviction of a criminal offence may be a disqualification for membership of a trade union as for the exercise of other civil rights, but emphasizes the importance it attaches to due process in cases in which measures of a political character may indirectly affect the exercise of trade union rights. They urged reconsideration of a provision which, while it did not deprive persons alleged to be members of proscribed political parties of the right to belong to a union until convicted, provided that the fact of being charged entailed suspension of the right.

In cases where it found that legislation involved racial discrimination in trade union rights it recommended that the government concerned give further consideration to its policy.

Under the Conventions, the status of the armed forces and the police is left to national discretion by both Conventions; other civil servants are covered by the 1948 Convention but not by the 1949 Convention. The Committee has considered a number of cases concerning civil servants and other government employees. The general principles which emerge from these cases are summarized as follows: "that civil servants and government employees should enjoy the right to organize and be protected against anti-union discrimination, that a requirement that they be organized in unions catering for them exclusively may be reasonable in certain circumstances, that it is normal to withhold the right to strike from civil servants enjoying statutory terms and conditions of employment, and that where the right of collective bargaining or the right to strike is withheld from other government employees on the ground that they are engaged in essential services there should be adequate alternative arrangements for the protection of their occupational interests".

In considering the right to establish and join organizations of their own choosing *"without previous authorization,"* the Committee has held that "while it is common practice for States to provide in their legislation such formalities as seem to them proper to ensure the normal functioning of these associations, a provision in virtue of which the right of association is subject to an authorization given by a government department in its sole discretion is incompatible with the principle of freedom of association".

The right to draw up their constitutions and rules freely is the key to the autonomy of workers' and employers' organization, but it is also clear that the International Labour Conference when it adopted the Convention contemplated that States would remain free to provide formalities to ensure the normal functioning of industrial organizations. The cases relating to the right to draw up constitutions and rules which have arisen before the Committee all involve some form of the question whether particular legal requirements that certain matters be provided for in the constitution and rules are inconsistent with the right of organizations to draw up their constitution and rules freely. The Committee had some doubt about a provision that rules of approved trade unions must contain a statement that it "will act as a body for co-operation with the public authorities and other associations for the furtherance of social solidarity and the subordination of economic and occupational interests to the national interests".

In a number of other cases where the law places on industrial associations applying for the status of recognized trade unions an obligation to deal with certain matters in their rules but does not prescribe the manner in which they shall be dealt with, the Committee has taken the view that the inclusion in legislation of provisions governing the relationship between unions and federations which in a developed trade union system would normally appear in trade union rules may be not unreasonable in the early stages of development of the trade union movement.

In connection with *"the right to elect representatives in full freedom,"* the two forms of intervention actually found are supervision of elections and disqualification for eligibility as officers. The Committee has on occasion pointed out "that the right of workers to elect their representatives in full freedom is a most important aspect of trade union freedom and that this right should be subject to as few restrictions as possible".

In considering cases involving the right *"to organize their administration and activities and formulate their programs"*, the Committee has emphasized that "organizations" is defined in the Convention as "any organization of workers or of employers for furthering and defending the interests of workers or employers".

Some restrictions on political activities of trade unions appear in a number of countries. In dealing with allegations that restrictions on political activities are inconsistent with the right to organize administration and activities and to formulate programs, the Committee has been guided by the resolution on the independence of the trade union movement adopted by the International Labour Conference in June 1952, which lays down the principle that "the fundamental and permanent mission of the trade union movement is the economic and social advancement of the workers," and that "when trade unions, in accordance with the national law and practice of their respective countries and at the decision of their members, decide to establish relations with a political party or to undertake constitutional political action as a means towards the advancement of their economic and social objectives such political relations or action should not be of such a nature as to compromise the continuance of the trade union movement or its social or economic functions irrespective of political changes in the country".

In commenting on one case before it, the Committee said:

> In order that trade unions may be sheltered from political vicissitudes and in order that they may avoid being dependent on the public authorities, the Committee considers that it is desirable that employers' and workers' organizations, on the one hand, should limit the field of their activities, without prejudice to the freedom of opinion of their members, to the occupational and trade union fields, and that the Government, on the other hand, should refrain from interfering in the operation of trade unions.

The right of organizations to affiliate with international organizations has been at issue in a number of cases. While pointing out that the right of national workers' organizations to affiliate with international workers' organizations normally carries with it the right to maintain contact with the international organizations to which their organizations are affiliated, and to take part in their work, and that it is desirable that every latitude should be afforded to them for this purpose, the Committee has recognized that this principle may not be susceptible of unqualified application in all circumstances, particularly where a political element or criminal charges are involved.

A number of cases before the Committee bear on the application of the principle of protection against anti-union discrimination. In a case in which the law of the country in question fully recognized freedom of association so far as the State was concerned, but contained no provision declaring that employers were bound to respect freedom of association, the Committee considered that, where a government has undertaken to ensure that the right to associate should be guaranteed by appropriate measures, the guarantee, in order to be an effective guarantee, should be ensured by measures including the protection of the worker against anti-union discrimination in his employment.

The Committee has been called upon to consider the incidence on freedom of association of national security and loyalty programs in a number of countries and has had occasion to emphasize the desirability of including in procedures for the protection of public security the safeguards necessary to avoid any infringement of trade union rights.

When the 1949 Convention was adopted, the International Labour Conference approved a report by its Committee on Industrial Relations recording the view that the provisions of the Convention were not to be interpreted as authorizing or prohibiting union security arrangements, such questions being matters for regulation in accordance with national practice. In one case before it the Committee held that where management was acting in accordance with union security arrangements agreed upon by the parties, the operation of the arrangements might cause a worker to withdraw from a particular union to which he belongs but not "to relinquish trade union membership" and might cause a worker to suffer certain prejudice in his employment by reason of his membership in a particular union but not "by reason of union membership". In these circumstances there was no anti-union discrimination involving a violation of the Convention.

In another case the Committee considered that where union security arrangements operate and require membership of a given organization as a condition of employment, there might be an unfair discrimination if unreasonable conditions were to be attached to persons seeking such membership but in the particular case there were appropriate national remedies for testing whether membership had been wrongfully refused in terms of the union shop agreement and the statute under which it was made, and the Committee refused to pursue the matter further.

The 1949 Convention provides that measures appropriate to national conditions shall be taken where necessary to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers' and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. The significance and importance of collective bargaining as an element in freedom of association has been recognized by the Committee in a number of cases. In cases in which the special regime applicable to public employees, or the restriction of strikes in essential services, has the effect of restricting collective bargaining, the Committee has insisted on the importance of alternative arrangements to safeguard the workers' interests. However, the Committee has held that the Convention does not place a duty on the government concerned to enforce collective bargaining by compulsory means. It has accepted fully the general principle of special restrictions on the right to strike in essential services, holding, for example, that it is not an infringement of freedom of association to make disputes in essential services subject to a special conciliation and arbitration procedure; or for a government, being responsible for the operation of public services, to apply certain limitations to the right to strike; or, where an essential public service is interrupted by an unlawful strike, to call in persons to perform the duties which have been suspended. However, the Committee has emphasized that limitation of the right to strike in essential services involves the corollary of satisfactory alternative arrangements for the redress of grievances.

A number of cases have been before the Committee posing the question whether measures for the control and supervision of union funds can be regarded as a reasonable precaution against the misuse of funds or whether they were, in fact, an unreasonable restraint upon trade union freedom. One group of cases relates to the disposal of the funds of particular trade unions chiefly in connection with the dissolution of unions. The general principle underlying conclusions in these cases appears to be that the funds of a dissolved union should be held in trust and subsequently applied for the benefit of the union which can most appropriately be regarded as its successor.

In evaluating the measures taken for the protection of trade union freedom, the author calls it "a leading example of one of the most significant tendencies in the development of international law in our time". He emphasized the mutually complementary character of the ILO guarantees, standards and procedures. The constitutional provisions and the Conventions represent the substantive law, but these would have "tended to remain a body of aspirations of uncertain practical value" without the procedures, such as the procedure for examination of reports on application of Conventions, both ratified and unratified, and the procedure for the examination of allegations of infringements of trade union rights, which make possible the development and progressive acceptance of a body of widely agreed principles concerning all aspects of the problem of trade union rights.

Among the limitations of the existing guarantees he mentions the fact that the substantive law does not deal with all the important aspects of the matter, and the extent to which the effectiveness of existing guarantees of freedom of association for trade union purposes is dependent on the degree of protection accorded to civil liberties in general, such as freedom from arbitrary arrest, detention or exile, the right to fair and public hearing by an independent and impartial tribunal, and the presumption of innocence until proof of guilt. He does not appear to regard the lack of physical sanctions as a limitation, but he does point out that the procedures for checking on the manner in which Conventions are applied (which he refers to as a type of "mutual verification of the fulfilment of obligations") depends for its effectiveness on the extent to which the governments and legislatures of members are responsive to international criticism. He goes on to say:

> The responsiveness of governments and legislatures to international criticism is of course a function of general political conditions. It depends upon the value attached to the pledged word and the keenness of the sense of international responsibility and interdependence in the country concerned, upon the prestige enjoyed there by the international body which has formulated the criticism, and upon the extent to which, under the conditions which prevail there, international criticism tends to reinforce or to silence national criticism of official policy. The conditions which make governments and legislatures responsive to criticism in and by international bodies cannot be created within short periods by any action which it is within the power of such bodies to take, but over longer periods the development of such conditions can be encouraged by building up a tradition of vigorous international co-operation based upon the moral and social values proclaimed by the preamble of the Constitution of the Organisation and the Declaration of Philadelphia and by promoting confidence in the fairness, understanding and sound judgment of those who serve upon and those who advise the bodies responsible for verifying whether the obligations which have been assumed are being properly discharged.

The closing chapter entitled "Freedom of Association and the Future Development of

International Law" deals with the significance of the ILO experience which the author has been analyzing on what he calls "the contemporary transformation of the scope and character of international law..... from a law demarcating the jurisdiction of States into a law governing common interests of mankind which can no longer be dealt with effectively on a national basis". The ILO procedures have illustrated a way of developing a body of accepted international doctrine on crucial social and industrial issues which is already exercising a considerable influence on social and legal development in many countries "and may at some stage harden into customary international law".

—*Edith Lorentsen*
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A Bibliography on Human Rights

Compiled in the Library of the Department of Labour

NOTE: The items marked with an asterisk are available in the Labour Library.

Books and Pamphlets

1. AMERICAN CIVIL LIBERTIES UNION. *Labor union "Bill of Rights"* Feb. 13, 1958. New York, 1958. 5 p. mim. Free.

Proposes guarantee of free speech, fair procedures and non-discrimination with trade unions.

2.* AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS. INDUSTRIAL UNION DEPT. *Handbook on the industrial security program of the Dept. of Defense;* the security risk program: how it works; who is affected; what to do. Washington, 1955. 46 p.

Partial contents: Who is under the programs? What the union can do. How the program works. Industiral Personnel security review regulation.

3.* ANDERSON, HOWARD RICHMOND, AND CUMMINGS, HOWARD H. *The UN declaration of human rights; a handbook for teachers* .....Washington, U.S., G.P.O., 1952. 31 p. (U.S. Office of Education Bulletin, 1951, no. 12).

Besides the Declaration there are a few pages on the responsibilities of teachers with reference to the teaching of human rights in the schools.

4.* BALDWIN, ROGER NASH. *Human rights—world declaration and American practice.* New York, Public Affairs Committee inc., c1950. 32 p. (Public Affairs Pamphlet, no. 167).

Contains the 30 articles of the declaration, with notes.

5. BARTON, MRS. REBECCA CHALMERS. *Our human rights; a study in the art of persuasion.....* Washington, Public Affairs Press, 1955. 102 p.

6.* BERGER, MORROE. *Equality by statute; legal controls over group discrimination.....* New York, Columbia Univ. Press, 1952. 238 p.

Bibliographical references included in "Notes" (p. 195-210). Bibliography: p. 221-224.

Contents: Civil rights today and during the reconstruction era. The Supreme Court, 1868-1937: buttressing the caste order. The Supreme Court, 1937-1950: undermining the caste order. The New York state law against discrimination: operation and administration. Law and the control of prejudice and discrimination.

7. BLAKE, ALDRICH. *The civil rights revolution.* Waco, Tex., Freedom of Choice, inc., 1955. 112 p.

Analysis of the civil rights issue in the United States from the standpoint of one opposed to compulsory civil rights codes.

8. BROOKES, EDGAR H., AND MACAULAY, J. B. *Civil liberty in South Africa.* Cape Town, Oxford University Press, 1958. 196 p.

A study prepared on the initiative of the South African Institute of Race Relations. In chapters on freedom of movement and of opinion, on economic, educational, religious and social freedom, the authors carefully analyse all the restrictive legislation; and they consider fully other related matters such as rule of law, the police force, the franchise, and whether racial discrimination is fundamental in South African law.

9.* CANADA. LAWS STATUTES, ETC. *An act for the recognition and protection of human rights and fundamental freedoms.* Ottawa, Queen's Printer, 1958.

Bill C-60, 1st reading, Sept. 5, 1958, H. of C. To be discussed in detail at the next session of Parliament.

10.* CANADA. PARL. SENATE. SPECIAL COMMITTEE ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS. *Proceedings and report.* Ottawa, King's Printer, 1950. 362 p.

Hearings held from April 25 to June 6, 1950. Hon. Arthur W. Roebuck, chairman.

11.* CANADA. PARL. SPECIAL JOINT COMMITTEE OF THE SENATE AND THE HOUSE OF COMMONS ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS. *Minutes of proceedings and evidence and reports.* Ottawa, King's Printer, 1948. 11 nos. in one vol. L. M. Gouin and J. L. Ilsley, joint chairmen.

12. CAUGHEY, JOHN WALTON. *In clear and present danger; the crucial state of our freedoms.* Chicago, Univ. of Chicago Press, 1958. 207 p.

How traditional liberties of individuals have been surendered in the name of internal security.

13. CHAFEE, ZECHARIAH. *Blessings of liberty.* Toronto, Longmans, 956. 350 p.

Partial contents: Forty years with freedom of speech and of the press. Does freedom of speech really tend to produce truth? Freedom and fear. Purges are for Russian lawyers, not American lawyers. The right not to speak. The freedom to think. Strengthening liberty in all countries.

14. CHAFEE, ZECHARIAH. *Documents on fundamental human rights.* Cambridge, Harvard University Press, 1951-1952. 3 v.

A most useful and comprehensive collection of sources. It starts with Magna Carta, includes full documentation for American Bills of rights, and ends with the 1950 Constitution of India and some cases of 1951.

15. CHAFEE, ZECHARIAH. *How human rights got into the constitution.* Boston, Boston University Press, 1952.

A good brief history of civil rights.

16. COMMAGER, HENRY S. *Freedom, loyalty, dissent.* New York, Oxford University Press, 1954.

Definitely liberal point of view.

17. CUSHMAN, ROBERT EUGENE. *Civil liberties in the United States; a guide to current problems and experience.* Ithaca, Cornell University Press, 1956. 248 p. (Cornell Studies in Civil Liberty).

A summary of field of civil liberties since the end of World War II. Contents: Freedom of speech, press, assembly, and petition. Academic freedom. Freedom of religion. The right to security and freedom of the person. Military power and civil liberty. The civil liberties of persons accused of crime. Civil liberties and national security. Civil liberties of aliens. Racial discriminaton. "Selected readings" at the end of each chapter.

18. DOUGLAS, WILLIAM ORVILLE. *Right of the people.* Toronto, Doubleday, 1958. 238 p. (Franklin and Marshall College. North Foundation Lectures, 12th ser., 1957).

19.* EVJUE, WILLIAM T. *The weapon of fear.* New York, Sidney Hillman Foundation, 1952. 10 p.

An address at the Prize Award luncheon of the Sidney Hillman Foundation on Sept. 25, 1952, at the Hotel Biltmore, New York.

20.* FERGUSON, G. V. *Freedom and the news.* Toronto, Canadian Institute of International Affairs, 1948. 17 p. (Behind the Headlines, v. 8, no. 6).

Partial contents: Ideas and facts for everyone. Communications and national power. Rise of the newspaper. Foundation of the free press. Gathering the news. Effects of competition. Facts of government control.

21.* FLEISCHMAN, HARRY. *Security, civil liberties and unions,* by Harry Fleischman, Joyce Lewis Kornbluh and Benjamin D. Segal. Washington, American Federation of Labor and Congress of Industrial Organizations, 1956. 52 p. (American Federation of Labor and Congress of Industrial Organizations, pub. no. 31). Bibliography: p. 50-51.

Partial contents: Who is a risk? The security problem. How the industrial security program works. Union criticisms. A union program. The Bill of Rights.

22. GELLHORN, WALTER. *Individual freedom and governmental restraints.* Baton Rouge, Louisiana State University Press, 1956. 215 p. (The Edward Douglass White Lectures on Citizenship, 1956).

Contents: Changing attitudes toward the administrative process. Restraints on book reading. The right to make a living.

23.* HALL, FRANK HAROLD. *Fair employment practices—a good beginning.* Ottawa, Dept. of Labour, 1957. 5 p. (Canada at work broadcast, no. 692).

The speaker, who is chairman of the Human Rights Committee of the Canadian Labour Congress, talks about the Canadian Fair Employment Practices Act passed in May 1953 and tells what his committee has done about the problem of discrimination in employment.

24.* HAND, LEARNED. *The Bill of Rights.* Cambridge, Mass., Harvard Univ. Press, 1958. 87 p.

One of America's most eminent jurists argues against the Supreme Court's growing tendency towards government by judical review. Closely reasoned and eloquently written, this little book could well become a classic in its field.

25.* HARTMAN, PAUL. *Civil rights and minorities.* New York, Anti-Defamation League of B'nai B'rith, 1955. 8 p.

Revised from an article in the *New Republic* by Paul Hartman and Morton Puner. Includes a chart which tells the legal status of civil rights in the 48 states and the District of Columbia.

26. HEWETSON, SARA (VAUGHAN). *Essays on human rights,* by V. L. Dicant, pseud. New York, Vantage Press, 1956. 128 p.

Comments on the present status of the rights guaranteed by the United States Constitution.

27.* HOW, W. GLEN. *The case for a Canadian Bill of Rights.....* Toronto, printed by Watch Tower Press, 1948. 40 p. Bibliographical footnotes.

Reprinted from *Canadian Bar Review,* May 1948. Partial contents: Civil liberties have a practical value to the state. The unwritten British Constitution. The myth of Magna Carta. The English Bill of Rights of 1689. The writ of Habeas Corpus. Freedom of communication: speech, press and assembly. History of English censorship. Censorship in Canada. Legislature establishes censorship. Limitations on expression under the Criminal Code. Freedom of worship.

28. KELLY, ALFRED HINSEY, ed. *Foundations of freedom in the American constitution.* New York, Harper, 1958. 299 p.

29.* KONVITZ, MILTON RIDVAS. *The constitution and civil rights.* New York, Columbia University Press, 1947. 254 p.

Contents: Part one: Federal civil rights. Part two: State civil rights.

30. KONVITZ, MILTON RIDVAS. *Fundamental liberties of a free people: religion, speech, press, assembly.* Ithaca, Cornell Univ. Press, 1957. 420 p. (Cornell Univ. Cornell Studies in Civil Liberty).

Contents: Part I: Freedom of religion. Part II: Freedom of speech, press, and assembly. Part III: Freedom of speech, press and assembly: the clear and present danger doctrine.

31. LAMONT, CORLISS. *Freedom is as freedom does; civil liberties today.* New York, Horizon Press, 1956. 322 p. Selected bibliography: p. 303-305.

A panoramic view of the condition of civil liberties in the U.S. today. Describes the decline of civil liberties during the McCarthy regime and concludes with the expressed belief that the tide is turning towards the restoration of the Bill of Rights.

32.* LUKAS, EDWIN J., AND LESKES, THEODORE. *Civil rights and civil liberties.....* New York, National Labor Service, 1954. 11 p. Bibliography: p. 10-11.

Reprinted from Social Work Year Book, 1954. Great progress was made in the protection and expansion of civil rights in the decade from 1940-1950. The article enumerates developments at the national, state and community levels and also considers civil liberties cases and mentions agencies concerned with both civil rights and civil liberties.

33. MACDERMOTT, JOHN C. M. *Protection from power under English law.* London, Stevens, 1957. 196 p. (Hamlyn lectures, 9th ser.).

34.* MALIK, CHARLES. *The Challenge of human rights.* Toronto, Canadian Institute of International Affairs, 1949. 16 p. (Behind the Headlines, v. 9, no. 6).

Based on an address delivered to the Canadian Institute of Public Affairs at Lake Couchiching, Ontario, Aug. 1949.

35. MORISON, SAMUEL ELIOT. *Freedom in contemporary society.* Boston, Little Brown and Co., 1956. 156 p. (Kingston, Ont. Queen's Univ. Chancellor Dunning Trust Foundation, 8th ser., 1956). Bibliography: p. 151-156.

Partial contents: Political freedom. Economic freedom. Academic freedom.

36. NEWMAN, EDWIN STANLEY. *Law of civil rights and civil liberties.* New York, Oceana, 1958. 96 p. (Legal Almanac series, no. 13). Rev. ed.

37. O'BRIAN, JOHN LORD. *National security and individual freedom.* Cambridge, Harvard University Press, 1955. 84 p. (Harvard University. The Godkin Lectures on the Essentials of Free Government and the Duties of the Citizen, 1955).

Contents: I. Security in an age of anxiety. II. Security, sanity, and fair play.

Discusses the "evolution of a new and un-American legal philosophy implemented by encroachments on the fundamental guarantees of liberty to the citizen".

38. PFEFFER, LEO. *Liberties of an American; the Supreme Court speaks.* Boston, Beacon Press, 1956. 309 p.

The author attempts to shed some light on what the liberties of an American are and what they mean. Gives an account of the leading decisions of the U.S. Supreme Court which interpret and apply the American Bill of Rights.

39. POUND, ROSCOE. *The development of constitutional guarantees of liberty.* New Haven, Conn., Yale Univ. Press, 1957. 207 p. (Lectures delivered at Wabash College, 1945).

Contents: In medieval England. The era of the Tudors and Stuarts. In the American colonies. From the Revolution to the Constitution.

40. PURDUE UNIV., LAFAYETTE, INDIANA. DIVISION OF EDUCATIONAL REFERENCE. *Science, education, and civil liberties;* report of poll no. 51 of Purdue opinion panel (proc). Lafayette, Indiana, 1958.

41.* SALISBURY, ROBERT ARTHUR JAMES GASCOYNE-CECIL, 5th MARQUIS OF. *Liberty and authority; a re-examination.....* Toronto, 1949. 31 p. (The Falconer Lectures, 1949).

Freedom and independence should be preserved within a framework of authority. Authority is necessary for liberty of thought and of spirit.

42.* SANDWELL, B. K. *The state and human rights.* Toronto, Canadian Institute of International Affairs, 1947. 16 p. (Behind the Headlines, v. 7, no. 2).

Discusses the setting up of a Commission on Human Rights by the Economic and Social Council of the United Nations and comments on the basic freedoms.

43. SCHWARTZMAN, RUTH, AND STEIN, JOSEPH. *Law of personal liberties.* New York, Oceana Publications, inc., 1955. 96 p. (Legal Almanac Series, no. 40).

This volume is concerned with four important areas of the law not generally known except to lawyers: (1) freedom from improper arrest; (2) freedom from improper search and seizure; (3) freedom from being compelled to furnish evidence against one's self; and (4) freedom from improper deprivation of liberty.

44.* SCOTT, FRANCIS REGINALD. *Dominion jurisdiction over human rights and fundamental freedoms.* Ottawa, 1949. p. 497-536. Reprinted from Canadian Bar Review, v. 27, no. 5.

Contents: The present situation. Proposals for a Bill of Rights. Fundamental rights in the B.N.A. Act. A Bill of Rights without amendment to the B.N.A. Act. Revision of existing federal laws. Freedoms and rights: some distinctions. Areas of federal jurisdiction. Survey of particular federal powers.

45. STOUFFER, SAMUEL ANDREW. *Communism, conformity, and civil liberties; a cross-section of the nation speaks its mind.* New York, Doubleday, 1956. 278 p.

This survey examines the reactions of Americans to two dangers: (1) from the Communist conspiracy outside and inside the country; (2) from those who in thwarting the conspiracy would sacrifice some of the very liberties which the enemy would destroy.

Partial contents: Are civic leaders more tolerant than other people? Is there a national anxiety neurosis? How tolerant is the new generation? Do women have viewpoints different from men? What aspects of communism do Americans distrust most? How far does the communist threat account for intolerance of non-conformists?

46.* UNITED NATIONS. DEPT. OF PUBLIC INFORMATION. *For fundamental human rights; an account of the work of the United Nations "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."* Lake Success, 1948. 126 p.

Partial contents: From the "Four Freedoms" to the Charter of the United Nations. Draft of the Declaration of Human Rights. Draft International Covenant on Human Rights. The implementation of the Convention on Human Rights.

47.* UNITED NATIONS. DEPT. OF PUBLIC INFORMATION. *Our rights as human beings; a discussion guide on the Universal Declaration of Human Rights.* Revised ed. New York, 1950. 31 p. Background reading: p. 31-32.

A guide for leaders of adult groups, as well as for teachers in senior high schools and colleges. The text of the Declaration is included.

48.* UNITED NATIONS. DEPT. OF PUBLIC INFORMATION. *United Nations work for human rights.* 2d ed. New York, 1957. 35 p. Selected bibliography: p. 31-35.

Partial contents: Draft international covenants on human rights. The right of peoples to self-determination. Future program. Advisory services in the field of human rights. Prevention of discrimination and protection of minorities Freedom of Information. Studies and conventions dealing with human rights. Status of women.

49.* UNITED NATIONS. DEPT. OF SOCIAL AFFAIRS. *The impact of the universal declaration of human rights.* New York, 1951. 41 p.

Partial contents: The authority of the universal declaration. The impact of the Universal Declaration on groups and individuals; also on international and national affairs.

50.* UNITED NATIONS. DEPT. OF SOCIAL AFFAIRS. *Yearbook on human rights*..... Lake Success. The Library has:— 1946-1955.

51.* UNITED NATIONS. ECONOMIC AND SOCIAL COUNCIL. COMMISSION ON HUMAN RIGHTS. *Report*..... New York. The library has: 1st, 1947-14th, 1958.

52.* UNITED NATIONS. ECONOMIC AND SOCIAL COUNCIL. COMMISSION ON HUMAN RIGHTS. SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS. *Report*..... New York. Library has: 1st, 1947; 3rd, 1949; 4th, 1950. The 5th and last report appeared in 1952.

53.* UNITED NATIONS. GENERAL ASSEMBLY. *Universal declaration of human rights.* Final authorized text. New York, United Nations, Dept. of Public Information, 1950. 8 p.

54.* UNITED NATIONS. SECRETARY-GENERAL, 1946-1953 (LIE). *Activities of the United Nations and of the specialized agencies in the field of economic, social and cultural rights; report.* New York, United Nations, Commission on Human Rights, 1952. 74 p.

A survey of the activities of various bodies of the United Nations and the Specialized Agencies which relate to the economic, social and cultural rights set out in articles 22 to 27 of the Universal Declaration of Human Rights.

55. UNITED NATIONS N G O'S NEWSLETTER. New York, United Nations, Dept. of Public Information, v. 1, no. 1 is dated Feb., 1958.

A new quarterly publication issued as a newsletter for non-governmental organizations, intended as a digest of information and ideas for organizers working on the observance of the 10th anniversary of the adoption of the Universal Declaration of Human Rights.

56. U.S. LIBRARY OF CONGRESS. LEGISLATIVE REFERENCE SERVICE. *Human rights, domestic jurisdiction, and the United Nations Charter* prepared by Mary Shepard, Foreign Affairs Division, under the direction of the Subcommittee on the United Nations Charter. Washington, U.S. Govt. Printing Office, 1955. 28 p. (Staff Study no. 11, Subcommittee on the United Nations Charter).

57.* WINNIPEG FREE PRESS. *Protecting our birthright; disallowance or Bill of Rights?* Winnipeg, 1954. 20 p. (Winnipeg Free Press Pamphlet no. 51).

Reprinted from the editorial pages of *Winnipeg Free Press,* May, 1954.

Takes the point of view that the federal Government is responsible for protecting the basic rights of Canadian citizens.

58.* WITMER, T. RICHARD. *Civil liberties and the trade union. New Haven, Conn.,* 1941. p. 621-635.

Reprinted from *The Yale Law Journal,* v. 50, no. 4, Feb. 1941.

How much control the union has over its members' activities is not yet established.

59.* WORKERS DEFENSE LEAGUE. EDUCATION COMMITTEE. *Labor's rights in the United States: an outline for teachers and students.* New York, 1941. 36 leaves. Mimeographed.

A brief summary of Labour's struggles to win recognition and to maintain and defend essential rights and liberties.

Periodical Articles

60.* Adult Education and Civil Liberties, by R. J. Blakely. (In *Food for Thought,* Nov. 1954, p. 6-9).

Digest of a speech delivered to the National Conference on Adult Education, London, Ont., May 28, 1954.

61.* Amalgamated Presses for Effective Civil Rights. (In *Butcher Workman,* Mar. 1957, p. 6).

Clothing Workers of America outlines its position favoring civil rights and President Eisenhower's plan to create Civil Rights Division.

62. American Academy of Political and Social Science. *Internal security and civil rights;* ed. by Thorsten Sellin. Philadelphia. The Academy, 1955. 190 p. (*Annals,* v. 300).

Contents: Freedom of expression. Privacy and personal dignity. Subversive persons and groups. Academic freedom. Job security and national security. Investigations.

63.* Canada Needs a Bill of Rights, by Andrew Brewin. (In *Canadian Labour,* Jan. 1957, p. 14-15).

From an address at the Ontario Federation of Labour Conference on Fair Practices and Human Rights, Dec. 1, 1956.

64.* Civil Rights and Liberties and Labor Unions, by Joseph L. Rauh, jr. (In *Labor Law Journal,* Dec. 1957, p. 874-881).

Failure of union responsibilities in treatment of minority groups and support of civil rights point to need for greater democracy within unions.

65. The Concept of Legal Liberty, by Glanville Williams. (In *Columbia Law Review,* Dec. 1956, p. 1129-1150). Bibliographical footnotes.

Contents: I. The definition of legal liberty. II. The Choice of the word "liberty." III. Legal liberties to act and not to act. IV. Legal liberty need not involve choice. V. Liberty and right. VI. Some examples of fallacies. VII. Liberty not as affected by the characteristics of duty. VIII. The non-emotive characteristics of legal liberty.

66. The Constant Pressure on Entertainment, by Gilbert Seldes. (In *Saturday Night,* June 27, 1953, p. 7-8).

Discusses various forms of pressure exerted in various fields, such as entertainment, the press, and the difficulty of meeting pressure methods by those who hold to standards of decent conduct.

67. Does Freedom Require a Bill of Rights? By H. F. Angus. (In *Saturday Night,* Nov. 14, 1953, p. 7-8).

A scholarly discussion of background considerations of a Bill of Rights.

68.* Ex-Red's Rights Upheld by UAW Review Board. (In *AFL-CIO News,* Jan. 4, 1958, p. 2).

Summary of first official ruling of Automobile Workers Public Review Board in upholding right of five former communists to retain jobs with union.

69. Human Rights, by Paul Martin. (In *External Affairs,* Jan. 1953, p. 28-31). Statement made on Dec. 17, 1952, by the Acting Chairman of the Canadian Delegation to the United Nations General Assembly.

Canada's attitude toward the prevention of discrimination and the protection of minorities.

70. Human Rights Day, by L. B. Pearson. (In *External Affairs,* Jan. 1954, p. 34).

Text of statement broadcast over the CBC network on Human Rights Day, Dec. 10, 1953, the 5th anniversary of the adoption of the Universal Declaration of Human Rights.

71. Human Rights in Canada, by Alex Maxwell. (In *Ontario Labour Review,* July-Aug. 1958, p. 8).

Legislation plays a vital role in ensuring equal rights to all people.

72. Human Rights in Canada. Round one: FEP. By Lloyd Harrington. (In *Canadian Forum,* Dec. 1953, p. 199-200).

Discusses the background and some of the results of the passing of the Canada Fair Employment Practices Act, July 1, 1953.

73.* Invasion of Privacy, by A. Whitehouse. (In *I.U.D. Digest,* Spring 1958, p. 30-38).

Infringement on civil rights charged against increasing use of electronic surveillance as "security" and employee checks in industry; uses in other capacities reviewed.

74.* Making People Like Each Other, by S. Blum. (In *Food for Thought,* April 1958, p. 331-336).

Problems discussed are based on actual cases brought to the attention of regional human rights of the labour movement.

75.* "Meaningful" Civil Rights Bill Pushed by AFL-CIO. (In *AFL-CIO News,* Aug. 3, 1957, p. 1).

Summary of statement issued by AFL-CIO executive committee.

76. Padlock Case, by Pauline Jewett. (In *Canadian Forum,* April, 1957, p. 7-8).

Discusses the guaranteeing of fundamental freedoms against provincial encroachment and suggests that there might be restrictions on the federal government also in this respect.

77.* Septieme anniversaire de droit de l'homme fete par CTM, by J. Perrault. (In *Canadian Unionist,* Jan.-Feb. 1956, p. 28).

78. What Do Civil Rights Mean in Quebec? By R. B. Fraser. (In *Maclean's Magazine,* Jan. 7, 1956, p. 3, 46).

Discusses the contrast in the official conceptions, inside and outside Quebec, of a citizen's rights and privileges, in the case of the Jehovah's Witnesses.

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